



Texas Department of Insurance

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August 23, 2007

Mr. Joey Longley, Executive Director
Sunset Advisory Commission
1501 N. Congress
Robert E. Johnson Bldg., 6th Floor
Austin, TX 78701

Dear Mr. Longley:

In accordance with the June 2007 *Self-Evaluation Report Instructions*, the Texas Department of Insurance (TDI) respectfully submits to the Sunset Advisory Commission (SAC) the following materials:

- 41 hard copies of the *Texas Department of Insurance Self-Evaluation Report* (enclosed)
- one copy of each required attachment (enclosed)
- an electronic version of TDI's Self-Evaluation Report (emailed)

Please contact TDI's Chief of Staff Karen Phillips at (512) 463-1754 or via email at karen.phillips@tdi.state.tx.us with any questions regarding the content of TDI's Self-Evaluation Report. Ms. Phillips will serve as the Agency Sunset Liaison during TDI's Sunset review.

TDI appreciates the opportunity to share its self evaluation report with SAC and looks forward to the upcoming Sunset review process.

Sincerely,

Handwritten signature of Mike Geeslin in blue ink.

Mike Geeslin
Commissioner of Insurance

Handwritten signature of Albert Betts, Jr. in blue ink.

Albert Betts, Jr.
Commissioner of Workers' Compensation

**TEXAS DEPARTMENT OF INSURANCE SELF-EVALUATION REPORT
TABLE OF CONTENTS**

Section I.	Agency Contact Information
Section II.	Key Functions and Performance
Section III.	History and Major Events
Section IV.	Policymaking Structure
Section V.	Funding
Section VI.	Organization
Section VII.	Guide to Agency Programs <ul style="list-style-type: none">- Administrative Operations- Commissioner's Area- Consumer Protection- Enforcement Program- Financial Program- Fraud Unit- Life, Health and Licensing- Legal Services Program- Property and Casualty Program- Workers' Compensation Research and Evaluation Group- State Fire Marshal's Office
Section VIII.	Statutory Authority and Recent Legislation
Section IX.	Policy Issues
Section X.	Other Contacts
Section XI.	Additional Information
Section XII.	Agency Comments
Attachments	

I. Agency Contact Information

Texas Department of Insurance Exhibit 1: Agency Contacts				
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II. Key Functions and Performance

A. Provide an overview of your agency's mission, objectives, and key functions.

MISSION

The Texas Department of Insurance (TDI) is primarily a regulatory agency whose mission is to regulate the marketplace firmly and fairly by enforcing and implementing the law. TDI strives to enhance internal and external communication for efficient and effective regulation and to promote outreach to educate the public.

OBJECTIVES

Agency objectives are outlined in TDI's Agency Strategic Plan for the Fiscal Years 2007-2011 Period. Funded objectives are summarized below.

- 1.1 Encourage fair competition in the insurance industry by reducing impediments to competition and improving insurance availability.
- 1.2 Encourage fair competition in the insurance industry by reducing unfair and illegal practices.
- 2.1 Encourage financial health of insurance industry through monitoring and regulation of industry solvency.
- 3.1 Decrease insurance industry loss costs by assuring companies provide loss control services.
- 4.1 Reduce loss of life and property due to fire by increasing public awareness, and by enforcing statutes relating to fire investigations, fire safety inspections, and fire protection and fireworks industries.
- 5.1 Promote safe workplaces through incentives, education, and other actions.
- 5.2 Promote safe workplaces by encouraging the safe and timely return to work.
- 6.1 Encourage appropriate delivery of workers' compensation benefits by ensuring payment for employees' medical care and reimbursement to providers.
- 6.2 Encourage appropriate delivery of workers' compensation benefits by promoting compliance through performance based incentives.
- 6.3 Encourage appropriate delivery of workers' compensation benefits by optimizing use of technology to educate participants of rights & responsibilities.

- 6.4 Encourage appropriate delivery of workers’ compensation benefits by certifying and regulating employers for workers’ compensation self-insurance.
- 6.5 Encourage appropriate delivery of workers’ compensation benefits by reducing disputes and resolving disputes promptly.
- 6.6 Encourage appropriate delivery of workers’ compensation benefits by proper administration of Subsequent Injury Fund.

KEY FUNCTIONS

Federal law delegates many of the functions for the regulation of insurance to the states. The McCarran-Ferguson Act and the Gramm-Leach-Bliley Act are two significant federal laws that delegate the authority to regulate insurance to the states. As reported in 2006 annual statements, premiums from insurance companies, HMOs, and related entities licensed or otherwise eligible to operate in Texas, total \$88 billion. Insurance is a complex business and laws governing insurance are not standard across product types, lines and services. The agency structure optimizes customer service by staffing regulatory activities with subject matter experts. TDI organizes activities based on subject matter expertise, rather than functions, resulting in several key functions crossing program lines. TDI performs nine key functions, which are described below.

Function	Objectives
Licensing, Certification and Registration	1.1, 4.1, 6.4
Form, Rate and Advertising Review	1.1, 1.2
Examination, Monitoring and Solvency Intervention	1.2, 2.1
Research and Analysis	1.1, 6.2
Education, Outreach and Customer Assistance	1.1, 4.1, 5.1, 5.2, 6.1, 6.3, 6.6
Complaint and Dispute Resolution	1.2, 6.5
Enforcement, Fraud and Investigations	1.2, 3.1, 4.1, 6.2
Inspections and Consultations	3.1, 4.1, 5.1
Support Services	Indirectly Supports All

Licensing, Certification, and Registration

The licensing, certification and registration function follows a process whereby applicants submit information, TDI staff review the information against established criteria and consider applicants for license, certification and registration approval. TDI’s process for licensing, certifying and registering individuals and entities regulates the Texas market by limiting participation to qualified, trustworthy and reliable individuals and financially healthy, well-managed, and trustworthy entities. Several TDI business units perform licensing, certification and registration functions that cover a wide array of occupational designations, requiring subject matter expertise. Some examples of the individuals and entities applying for licensure, certification, or registration include agents, doctors, fire alarm technicians, employers wishing to self-insure, health maintenance organizations, and insurance companies. Currently, TDI has licensed, certified or registered approximately 2,200 insurance entities and more than 250,000 agents, as well as 11,786 fire alarm, extinguisher, sprinkler, and fireworks entities and individuals.

A recent example of the Legislature’s expanding TDI’s licensing, certification and registration function is House Bill 7 (HB 7), 79th Legislature, Regular Session, which authorized the establishment of workers’ compensation health care networks and provided standards under which TDI certifies network applicants.

Form, Rate and Advertising Filing Review

Once licensed to sell insurance in Texas, an insurance company must submit product information to TDI for informational purposes, review and/or approval. Based on subject matter expertise, various TDI business units review rate, form and advertising filings for various lines of insurance. The process includes reviewing filings for compliance with applicable laws and regulations, ensuring that filings are not misleading or deceptive, and analyzing rates and calculation methodologies to ensure that the rates are not excessive, inadequate or unfairly discriminatory. Additionally, TDI participates in rate hearings for statutorily created entities that provide coverage in underserved areas. TDI reviewed or completed approximately 54,000 filings in FY 2006, which included filings for HMO forms, life/health forms, property and casualty rates and forms, and advertising.

Examination, Monitoring and Solvency Intervention

The examination, monitoring, and solvency intervention function protects the insurance buying public by ensuring that carriers remain financially sound and comply with applicable federal and state law. TDI performs both statutory and complaint-driven examinations to review market conduct, company operations, and financial stability. TDI works with troubled companies by requiring development and implementation of corrective action plans that ensure compliance with applicable laws and regulations. TDI also seeks to rehabilitate financially troubled insurance companies, but when a company cannot be rehabilitated, TDI manages the liquidation of insolvent insurers by appointing special deputy receivers. In the last five years, TDI has examined, rehabilitated, and managed the insolvency of insurance companies and related entities, as evidenced by the chart below.

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
On-site examinations conducted	167	167	159	160	156
Actuarial examinations completed	80	81	81	84	79
Companies rehabilitated	13	19	6	11	9
Receiverships managed	24	22	23	21	22

Research and Analysis

TDI regularly collects and analyzes underwriting, claim, and premium data to better understand the marketplace, monitor market trends and ultimately promote competition. TDI also gathers other types of data when market trends, such as the increased use of credit scoring, are identified. The research and analysis function assists TDI with preparing market analysis reports, responding to inquiries related to the marketplace, and identifying trends in and evaluating the effectiveness of the workers' compensation system. The function involves in-depth analyses of the Texas insurance market and conducts special studies to assist the agency, policy makers, and the public.

For example, TDI conducted a four-year health care study aimed at increasing the affordability and availability of health insurance. The *Insure Houston* pilot project is a direct result of TDI's research and planning activities. Though not implemented, the intended goal is to provide a new, more affordable coverage alternative for nearly one million Houston workers and their families.

Another example of the research and analysis function involves TDI's actuarial analysis of homeowner rates. For instance, TDI recently found a carrier's rates to be excessive, unreasonable and unfairly discriminatory. The Commissioner of Insurance ordered the company to reduce the rates by five percent and refund policyholders the amount overcharged since December 2004. A court upheld TDI's determination and TDI estimates that refunds to Texas policyholders will exceed \$56 million (<http://www.tdi.state.tx.us/news/2007/news20078.html>). Not all reviews result in formal actions and court orders, as many carriers seek to work out differences with TDI.

Education, Outreach and Customer Assistance

An important component of TDI's mission is to enhance internal and external communication for efficient and effective regulation and promote public outreach to educate consumers. Education, outreach and consumer assistance are essential to achieving TDI's mission. While all TDI areas perform information-sharing activities, education, outreach and customer assistance is the primary function of certain areas within the agency. TDI offers a variety of education, outreach and customer assistance activities, such as toll free telephone lines, e-mail resource mailboxes, educational publications, newsletters and brochures, presentations to various interests groups, training of local authorities to participate in fire prevention efforts, fire prevention and safety training to the public, and compliance and educational workshops for industry representatives and system participants.

Another educational tool for customers and the industry is TDI's website. The website is a convenient source of information for the public, accessible 24 hours a day, 7 days a week. TDI customers demand instant access to insurance and fire safety and prevention information and services. Currently, the website receives more than three million visitors per month. TDI continually explores opportunities to enhance website services. For example, TDI's website was a valuable tool for consumers impacted by Hurricanes Katrina and Rita in 2005. Following the hurricanes, TDI created Internet resource pages to assist consumers by providing information on:

- insurance carrier contacts
- claim submission process, and
- emergency food, clothing and shelter resources.

Following a catastrophic event, TDI extends toll free telephone hours to better assist customers. During hurricanes Katrina and Rita in 2005, staff worked 8 a.m. to 7 p.m., 7 days a week. These hours corresponded with the Federal Emergency Management Agency's hours of operation at its Disaster Recovery Centers (DRCs). TDI staff also frequently volunteer to assist consumers in the field at DRCs.

In addition to traditional outreach to the public, the Commissioner has founded the TDI Academy to influence the future industry workforce and prepare today's youth for future insurance decisions. The TDI Academy is a program established on the foundational goals of improving insurance awareness and literacy and improving the quality and diversity of insurance enterprise leadership and management. The pillars of the Academy are Insurance Leadership, Employment, Academics, Research and Networks and the motto is I-LEARN. The Academy will develop initiatives to educate high school and college students about insurance principles, careers and regulatory issues as well as develop professional training for insurance company management personnel designed to help them incorporate different cultural, economic and social perspectives into their decision-making processes.

Complaint and Dispute Resolution

TDI facilitates the resolution of policyholder, health care providers, and workers' compensation system participant complaints and disputes. The paperless complaint process allows TDI to efficiently process, track and access complaint information, which enabled resolution of approximately 26,000 insurance complaints in FY 2006. The complaint resolution process includes receipt of the complaint, investigation of the issue in question, identification of the complaint as frivolous, justified, or unjustified, resolution or closure of the complaint, and advice to the complainant of rights to further pursue the issue. When warranted, due to possible statutory or rule violations, a complaint may be referred to TDI's Enforcement Program or Fraud Unit for review. For workers' compensation disputes, TDI offers an informal and formal dispute resolution process that begins with a benefit review conference and can result in a contested case hearing and ultimately an appeal panel review.

Enforcement, Fraud, and Investigation

TDI's enforcement, fraud and investigation function handles allegations of illegal activities by insurance agents, companies, HMOs, attorneys, health care providers, and other licensed entities. TDI's Enforcement Program investigates allegations and takes civil disciplinary actions, which include license denials, revocations and suspensions, administrative penalties and/or restitution.

Enforcement cases may also result in criminal prosecution. These cases are referred to TDI's Fraud Unit for investigation, preparation and referral to state and federal prosecutorial agencies. The Fraud Unit also investigates fraudulent consumer and provider claims as well as the unauthorized sale of insurance products. In addition, the Fraud Unit maintains a special prosecutor that prosecutes approximately 100 insurance fraud cases a year, including referred cases from other agencies such as the Federal Bureau of Investigations (FBI), US Postal Service and local law enforcement agencies, and provides technical advice to district attorney offices around the state. Because of the overlap between civil and criminal enforcement actions, the Fraud Unit and Enforcement program coordinate efforts and share information where possible, which includes assisting outside prosecutors, such as the Texas Office of Attorney General (OAG), in criminal prosecutions.

TDI's enforcement, fraud, and investigation function also includes fire and arson investigations upon request by local communities. The State Fire Marshal serves as the chief arson investigator for the state. The State Fire Marshal's Office (SFMO) assists local communities in prosecuting arson cases. SFMO also provides canine services and arson lab support.

Inspections and Consultations

TDI's inspection and consultation function promotes loss mitigation to improve insurance availability and affordability. To this end, TDI performs a variety of loss control and accident prevention services that support the function, including physical inspections of property and businesses as well as reviews of company programs, services and rates.

TDI inspects property in the Texas Gulf Coast region and certifies compliance with windstorm building codes so consumers may obtain wind and hail coverage through the Texas Windstorm Insurance Association (TWIA). By ensuring compliance with building codes, TDI helps mitigate losses due to high wind events. TDI also provides free safety and health consultations to private Texas employers in high-hazard industries to identify and correct workplace hazards. Employers benefiting from these consultations commit to eliminating serious hazards identified during the visit. Lastly, TDI conducts fire and life safety inspections of private and public facilities across the state to prevent loss of life due to fire.

A component of TDI's inspection and consultation function includes the review and evaluation of insurers' loss control and accident prevention services. TDI verifies that licensed insurance companies provide these services for policyholders of general liability, professional liability, medical professional liability for hospitals, commercial automobile and workers' compensation lines of insurance.

TDI mitigates fire losses through evaluation of building codes, classification of building materials and construction techniques and commercial property rating schedules. Through random statewide spot-check inspections, this process ensures consumers receive fair and equitable commercial property rates.

Support Services

TDI has an administrative program that supports agency operations, including payroll, purchasing, facilities management, human resource management, professional development, information technology services, legal support, planning and quality control. Pursuant to HB 7 (79th Texas Legislature) TDI effectively consolidated the administrative support functions of TDI and the Texas Workers' Compensation Commission (TWCC), now the Division of Workers' Compensation (DWC) within TDI.

Additionally, HB 7 administratively attached the Office of Injured Employee Counsel (OIEC) to TDI, even though OIEC is a separate state agency. Accordingly, TDI successfully began providing facilities and administrative support to the OIEC.

B. Do each of your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

Yes, the agency's key functions continue to serve clear and ongoing objectives, which are specified in the Agency Strategic Plan FY 2007-2011. The strategic objectives for TDI's nine functions are described below followed by a discussion of why the functions are still needed and the harm that would result if the functions were no longer performed.

Licensing, Certification, and Registration

The licensing, certification, and registration function contributes to the objectives of encouraging fair competition in the market by reducing impediments to competition and improving insurance availability (1.1); reducing loss of life and property due to fire (4.1); and encouraging the appropriate delivery of workers' compensation benefits by certifying large private employers that qualify to self-insure (6.4).

The function is still needed to ensure that only qualified, trustworthy and reliable applicants and financially healthy, well-managed, and trustworthy entities are allowed to enter the Texas market and serve the public, thereby increasing availability of coverage and competition in the marketplace. Similarly, fire alarm, sprinkler, extinguisher, and fireworks licensing, certification, and registration is still needed to ensure properly working fire prevention and safety equipment is installed in Texas residential and commercial properties.

Without this function, the Texas public may be significantly harmed. Given the size of the market, complexity of products and services, and absence of federal oversight, unscrupulous individuals and entities may take advantage of the general public's naivety of insurance products and services to exploit them. Additionally, if financially troubled businesses enter the market place, policyholders would be vulnerable in the event that the company failed or were unable to cover its claims costs. Texas could also experience an increase in the loss of life and property due to fire, as there would likely be an increase in the sale or installation of faulty fire prevention and safety products.

Form, Rate and Advertising Filing Review

The form, rate and advertising filing review function supports the objectives of encouraging fair competition in the market by reducing impediments to competition and improving insurance availability (1.1) and reducing unfair and illegal practices (1.2).

The function is still needed to ensure that insurance advertisements, policy provisions, and related materials comply with applicable laws and are not deceptive or misleading, thus reducing unfair and illegal practices. Rate filing reviews are also necessary to ensure rates are not excessive, inadequate, or unfairly discriminatory, which promotes fair competition in the marketplace. Additionally, form, rate and advertising review is a mechanism for identifying underserved markets, and is necessary in order to improve the availability of coverage through incentives and requirements for insurers to write coverage in underserved markets. Several statutory entities have been created to alleviate lack of coverage in underserved areas, such as the TWIA, the Texas Fair Access to Insurance Requirements Plan Association (TFPA), and the Texas Automobile Insurance Plan Association (TAIPA). TDI and the public actively participate in the rate hearings for TWIA and TAIPA to ensure the availability and affordability of coverage. TFPA rates are subject to prior approval and are reviewed in a manner similar to other insurers.

Without this function, Texans could see an increase in deceptive, misleading, and unauthorized insurance. Unscrupulous individuals and entities could use advertising to sell fraudulent or inappropriate products to the most vulnerable Texans. Without TDI review of forms, legitimate companies may include overly complex or non-compliant provisions in their policies. Another potential harm of not performing this function is companies using inadequate rates, which is financially risky because insurers may not collect enough premiums to cover actual claim costs, potentially reducing the availability of coverage in the market and increasing costs to consumers left with unpaid claims. Additionally, without this function, insurers may charge excessive rates, causing consumers to pay more for the insurance coverage than is actuarially justified. Lastly, without this function there would also be inadequate insurance coverage in the state's underserved areas, causing financial hardship to consumers in those areas due to losses that could have been covered through insurance.

Examination, Monitoring and Solvency Intervention

The examination, monitoring, and solvency intervention function furthers the objectives of reducing unfair and illegal practices (1.2), and regulating insurance industry solvency (2.1).

The function is still needed to ensure a financially strong, competitive marketplace, protect the public from unfair or discriminatory market conduct, and initiate action through early detection of insurance companies operating in a financially hazardous condition or in a manner harmful to the public. Solvency intervention activities are needed to rehabilitate financially unstable companies by directing them to develop and implement corrective action plans to cure hazardous conditions and comply with applicable laws and regulations. In the few instances when an insurance company cannot be rehabilitated, TDI manages the liquidation of insolvent insurers to ensure rightful compensation to claimants of the insolvent estate. In addition to financial and solvency monitoring, the function is also needed to conduct complaint-driven examinations and detect unfair or illegal market practices that would adversely harm the public.

Without this function, the financial health of companies would not be monitored and companies may put profits before policyholder interests, thus weakening the companies' ability to meet claim payment obligations. Furthermore, unfair and illegal practices would go undetected, which ultimately reduces competition and availability of coverage.

Research and Analysis

The research and analysis function supports the objectives of encouraging fair competition in the market by reducing impediments to competition and improving insurance availability (1.1) and encouraging the appropriate delivery of workers' compensation benefits by promoting compliance through performance based incentives (6.2).

The function is still needed because it allows TDI to collect and analyze underwriting, claim and premium data, and to identify potentially unfair or illegal practices or rating schemes. The data analysis function provides critical evidence for challenging unfairly discriminatory rating schemes, resulting in restitution to policyholders affected by the excessive or unfairly discriminatory rates.

Additionally, the function is still needed to conduct professional studies and objective research related to issues such as the delivery of benefits to injured employees, the rehabilitation and reemployment of injured employees, the impact of certified workers' compensation health care networks and employer participation trends in the workers' compensation system. No single private or public entity on a state or national level collects, analyzes, and reports on the Texas workers' compensation system data on the scale and depth conducted by TDI.

Without this function, company underwriting practices would go unchecked and consumers may experience unfairly discriminatory or excessive rates or difficulty obtaining coverage. Additionally, without this function, the Legislature would not have access to comprehensive and unbiased workers' compensation market information, which could adversely impact key regulatory and legislative decisions.

Education, Outreach and Customer Assistance

The education, outreach, and customer assistance function contributes to the objectives of encouraging fair competition by reducing impediments to competition and improving insurance availability (1.1); reducing loss of life and property due to fire by increasing public awareness (4.1); promoting safe workplaces through incentives and education to promote safe and healthy workplaces and by encouraging return to work (5.1, 5.2); and encouraging appropriate delivery of workers' compensation benefits by optimizing the use of technology to educate participants of rights and responsibilities (6.3).

The function is still needed to provide the public with tools and information to better make informed decisions about insurance purchases and coverage needs. The function also increases availability of coverage by informing consumers about state-sponsored programs aimed at assisting Texans who are unable to obtain insurance from licensed private insurers, such as TDI's HelpInsure.com and Texas Health Options. Education is a proactive approach to mitigating losses on the broadest scale possible. This function educates industry and businesses about safety issues, allowing implementation of solutions that reduce injuries, loss of life and property. The function further assists industry through workshops, checklists, and filing manuals, which improve industry understanding of regulatory requirements.

Without this function, consumers would not have access to an unbiased source for insurance information. Given the complexity of insurance, consumers would be at a disadvantage when making product selections and could purchase inappropriate or insufficient coverage, exposing them to financial harm. For example, TDI has provided seminars for senior citizens to educate them on the dangers of purchasing unsuitable life insurance products. Without this service, seniors would be less informed, making them more vulnerable to unscrupulous agents. Not performing this function would also result in an increase in the incidence of work-related injuries, illnesses, and fatalities, causing increased workers' compensation claims and costs to all system participants. The function involves multiple TDI activities and serves millions of consumers annually, including nearly 1 million requests for assistance and approximately 43 million website visitors in FY 2006.

Complaint and Dispute Resolution

The complaint and dispute resolution function advances the objectives of encouraging fair competition in the insurance industry by reducing unfair and illegal practices (1.2) and encouraging the appropriate delivery of workers' compensation benefits by minimizing and resolving disputes promptly (6.5).

Complaint resolution provides a system of accountability for claims handling and is needed to ensure that Texans receive the benefits of their insurance coverage. In FY 2006 TDI returned \$56 million to Texas consumers as a result of complaint resolution. Additionally, dispute resolution promotes timely resolution to workers' compensation claims by providing informal and formal processes.

Without this function, consumers would be harmed as companies would have little incentive to resolve consumer complaints. The workers' compensation participants would be harmed because there would be less opportunity for timely resolution of workers' compensation disputes through mechanisms associated with this function. Not performing the function would be particularly harmful to injured employees who may have experienced economic and personal hardship from a workplace injury.

Enforcement, Fraud, and Investigation

The enforcement, fraud, and investigation function contributes to the objectives of encouraging fair competition in the insurance industry by reducing unfair and illegal practices (1.2), decreasing insurance industry loss costs by assuring agent, adjuster, company directors, consumer, provider and workers' compensation fraud referrals to prosecutors (3.1), reducing loss of life and property due to fire (4.1), and encouraging the appropriate delivery of workers' compensation benefits by promptly detecting and appropriately addressing acts or practices of noncompliance (6.2).

The function is still needed to identify fraud schemes, prevent the unauthorized sale of insurance, and ensure appropriate administrative action to address violations of statutes or regulations by regulated entities. Insurance fraud results in higher insurance premiums paid by consumers, thus affecting the availability and affordability of coverage. Insurance fraud also affects the financial solvency of regulated entities that pay for fraudulent claims. According to the [Coalition Against Insurance Fraud](#), a global alliance of insurers, consumer organizations and state agencies fighting insurance fraud, approximately 10 percent of all claims have some element of fraud.

Fire and arson investigations are still needed to identify the cause of fire and assist local communities in prosecuting the crime. Some local communities do not have fire investigation services, and these communities rely on SFMO services. Additionally, the investigation process is used to collect information and identify trends. The information is provided to communities in order to create a proactive means for addressing the fire trends and preventing future fires.

Without this function, regulated entities would have no incentive to comply with the law. Consumer and provider fraud would go unchecked resulting in increased insurance premiums, which ultimately reduces the availability and affordability of coverage. Without enforcement, fraud, and investigation services, Texas would likely see an increase in insolvent insurance companies as well as increased losses of life and property due to fire. In both cases, the consumer bears the burden financially by either paying higher premiums or foregoing insurance and risking complete financial exposure for future losses.

Inspections and Consultations

The inspections and consultations function advances the objectives of decreasing insurance industry loss costs by assuring companies provide loss control services (3.1), reducing loss of life and property due to fire (4.1), and promoting safe and healthy workplaces (5.1).

This function is still needed to mitigate insurance company losses and ensure effective risk control practices by reviewing loss control programs and compliance with wind resistant building codes. This function also ensures that commercial property owners' rates accurately reflect risk, providing an economic incentive for the property owners to implement policies and procedures to lower that risk. In addition, the function is still needed to reduce workplace injuries through review of accident prevention services and inspections of workplaces for compliance with state and federal workplace safety laws. Inspections of fire safety equipment, fire exit strategies, public and private properties and facilities, and retail handling of flammable liquids is still needed to reduce loss of life and property due to fire.

Without this function, Texas coastal residents may experience problems obtaining wind and hail coverage. The Texas coastal area is an underserved area and some residents' opportunity for purchasing wind and hail coverage is dependent upon certification of compliance with Texas wind resistant building codes. TWIA requires these certificates prior to issuing wind and hail coverage along the Texas coast. Inspections can only be made by TDI employees or Texas licensed professional engineers who have been appointed by the Commissioner of Insurance. TDI has included a policy issue in the Self-Evaluation Report that proposes the transfer of wind and hail inspections to TWIA.

Support Services

The support services function continues to indirectly support the strategic objectives of the agency through the performance, management, and coordination of administrative tasks, such as payroll, accounting, human resources, and legal services, which enables TDI programs to focus on regulating the business of insurance in this state. This function is primarily funded under central administration, which indirectly supports all strategic objectives. Additionally, the strategic objectives for this function associated with legal support include encouraging fair competition in the insurance industry by reducing impediments to competition and improving insurance availability (1.1) and reducing unfair & illegal practices (1.2), and encouraging financial health of insurance industry through monitoring and regulation of industry solvency (2.1).

The support services function is still needed to operate the infrastructure of the agency. If TDI regulatory staff also had to process travel vouchers, reconcile payroll, and ensure information technology support, regulating the business of insurance would be compromised.

Without this function, TDI programs would have to manage and coordinate all administrative tasks, which is inefficient and detracts from the program's ability to perform key regulatory functions. If programs performed support services, it would be difficult to ensure consistency and accountability across the programs as each area may implement a different process for the support services.

<p>C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?</p>
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In addition to the Legislative Budget Board approved performance measures, TDI uses various means to determine how effective and efficient the agency is at meeting its strategic objectives. The information below describes evidence that illustrates the agency's overall effectiveness and efficiency. Documents discussed below are available for review.

Surveys

Stakeholder and employee feedback provide TDI with a measure of effectiveness. Examples of surveys used to assess agency performance include customer service assessments, the Survey of Organizational Excellence (SOE), and a recent employee input survey. Stakeholders responding to the *Fiscal Year 2006 Customer Service Report* indicated high levels of satisfaction with TDI overall and rated TDI highest in the areas of staff professionalism and courtesy (78 percent), information and services available on TDI's Web site (78 percent), and TDI efforts to protect citizens from loss of life and property due to fire (80 percent). Additionally, the biennial SOE illustrates that employees view TDI as effective in the areas of customer service, continuous improvement, and delivery of quality services. In the March 2007 staff survey, TDI employees rated their programs favorably on customer communication (84 percent), access to program services (79 percent), and complaint handling (77 percent).

Comparison Studies

To assess performance, TDI benchmarks against other states' departments of insurance and other Texas state agencies. The National Association of Insurance Commissioners (NAIC) conducts an annual comparison study of states' insurance departments and TDI continually ranks in the top tier in the areas of premium volume, domiciled insurers, licensed producers/agents, budget, revenue, and staff. The NAIC study underscores the influence TDI has on the Texas and national insurance markets. Additionally, TDI programs consult and survey other state insurance departments when implementing new systems, processes, and/or policy solutions. For instance, the SFMO conducted a comparison of fire prevention programs to study Insurer Services Office programs, Fire Incident Reporting Systems, Fire Safety House Programs, and Juvenile Firesetter Intervention Programs among a sample group of states.

Legislative Actions

The Texas Legislature has recently enacted or, at a minimum, proposed legislation based on TDI's biennial reports to the Legislature as well as charging TDI with increased responsibility as evidenced by creating DWC, formerly TWCC, within TDI. Additionally, the 79th Legislature entrusted TDI with the responsibility of providing administrative support to the newly established OIEC.

Restitution and Enforcement Actions

TDI enforcement actions and Commissioner Orders facilitate achieving the strategic objective of reducing unfair and illegal practices, and have resulted in fines and penalties, monetary restitution, premium refunds and rate reductions, as well as greater consumer protections. Over the past five years, TDI has assessed more than \$70 million in penalties for unfair and illegal practices and returned nearly \$140 million in restitution to consumers. Noteworthy examples include prompt pay penalties, provider restitution, and emergency orders to assist consumers affected by Hurricanes Katrina and Rita. Additionally, TDI routinely takes the appropriate administrative and criminal enforcement actions to reduce unfair and illegal practices within the State of Texas. Monthly enforcement action reports are available for review.

Independent Audit Findings

Other state agencies and some national organizations review TDI functions to either ensure compliance with various statutory requirements or for accreditation purposes. Audits include those conducted by TDI's Internal Audit Section and State Office of Risk Management regarding *TDI's Disaster Recovery Plan*, the Comptroller of Public Accounts regarding recovery and post-payment audits, and the State Auditor's Office for TDI's performance measure relating to the number of complaints resolved.

In February 2006, Human Resources policies and procedures were audited by the Civil Rights Division of the Texas Workforce Commission. Human Resources was in compliance with policies and procedures related to hiring and promotions; performance evaluations, disciplinary actions, work place accommodations and equal employment opportunity policy including sexual harassment.

Additionally, TDI has been NAIC accredited since 1992. The NAIC Accreditation Program sets minimum standards for laws and regulations, processes and procedures, staffing and communications in financial regulation. The objective of the accreditation program is to provide a process whereby solvency regulation of multi-state insurance companies can be enhanced and adequately monitored with emphasis on the following:

- adequate solvency laws and regulations in each accredited state to protect insurance consumers
- effective and efficient financial analysis and examination processes in each accredited state, and
- appropriate organizational and personnel practices in each accredited state.

As of March 2005, fifty state insurance departments are accredited.

TDI as Agency Management Resource

Other state agencies regularly seek TDI's guidance when implementing new processes. For instance, the International Association of Industrial Accident Boards and Commissions and the Governor's Office reviewed TDI's disaster recovery planning documents when developing their recovery plans. Additionally, the Department of Information Resources (DIR) used TDI's Project Analysis Model process as groundwork for the current DIR project framework. TDI also oversees the implementation of Senate Bill (SB) 1670, the motor vehicle financial responsibility verification program established by the 79th Legislature, Regular Session. SB 1670 required TDI to lead an inter-agency team comprised of the Texas Department of Public Safety (DPS), the Texas Department of Transportation (TxDOT) and DIR. Other

states have indicated interest in the results of the SB 1670 project as Texas adopted a unique approach to combating the prevalent issue of uninsured motorists. The Sunset Advisory Commission has requested assistance from TDI's Workers' Compensation Research and Evaluation Group (REG) staff for analyses of Sunset reviews related to workers' compensation agencies. The decision of other state agencies to model processes on TDI processes is an indicator of effectiveness and efficiency.

Moreover, TDI participates in selected NAIC events. The Commissioner co-chaired the NAIC Military Sales Working Group with Georgia's Insurance Commissioner to draft a model regulation protecting military members from abusive and misleading insurance sales practices. The Military Sales Working Group worked closely with the Department of Defense when developing this model regulation. In June 2007, the NAIC adopted the Military Sales Practices Model Regulation drafted by the Military Sales Working Group, and this model regulation is currently being formally adopted by the majority of states.

TDI's Licensing Division received an award as the Regulatory Unit of the Year 2005. The Licensing Division was the first licensing division to be awarded this recognition by the Securities and Insurance Licensing Association (SILA). Furthermore, Licensing's Deputy Commissioner, Matt Ray, was selected as the Outstanding Regulator of the Year for 2006, receiving the Warren E. Spruill Regulator Recognition from SILA as well. National recognition bestowed on TDI programs exemplifies TDI's effectiveness at meeting objectives.

Planning Activities

As required by the Texas Government Code, all state agencies conduct some level of planning activities through an agency strategic plan. While TDI's Strategic Plan sets the groundwork for each upcoming biennium's legislative appropriations request, TDI has embraced additional planning activities in order to be effective and efficient at meeting strategic objectives while working within the confines of the agency's available resources. TDI recognizes the importance of planning and has implemented many processes to facilitate appropriate use of its resources. Current planning activities include biennial business planning, information technology planning, disaster recovery planning, and succession planning.

- *Business Planning*

Business planning ensures a cyclical process for reviewing and improving program and agency operations as well as providing an opportunity to focus on customer services. Each biennium, TDI develops program and agency business plans, which consider programs' strengths and weaknesses, and anticipate market and industry trends. TDI uses the business plans to communicate management directives through the identification of projects and initiatives that enhance performance and support agency strategic plan goals and objectives. This process promotes accountability and assists with limiting ad hoc requests for shared agency resources.

Some examples of operational efficiencies resulting from business planning include paperless complaint handling, call monitoring system, centralized forms management, online availability of windstorm certificates, paperless agency leave accounting, interactive voice response system to handle agent calls, and purchase of digital cameras to facilitate arson investigations.

- *Information Technology Planning*

TDI's technology planning is based on the business requirements identified in the program and agency business plans and includes infrastructure maintenance, planned obsolescence, scheduled upgrades, agency projects, and ITS feasibility studies. Information technology planning is documented in the agency's Information Resources Strategic Plan, Information Technology Detail, Information Technology Roadmap, and Technology Architecture Overview.

- *Disaster Recovery Planning*

TDI recognizes the importance of disaster recovery planning and implemented its disaster recovery process in 1999. Through the planning process, the agency and the program create disaster recovery plans. The purpose of the agency disaster recovery plan is to establish policies and procedures and provide essential information to ensure the efficient and effective recovery of critical agency functions in the event of a disaster. Program recovery plans identify critical functions and alternate ways to perform those functions with fewer staff and using manual processes rather than processes dependent on technology. Agency-wide and program disaster recovery tests are conducted annually on an alternating basis to assess the effectiveness of the respective disaster recovery plans.

- *Succession Planning*

As part of the strategic planning processes, TDI develops a workforce plan, which is based in part on programs' staffing assessments gathered through the business planning process. Additionally, the Commissioner of Insurance has identified workforce/leadership development and succession planning as important agency priorities and asked programs to submit program-level leadership development plans. These plans identified strategies to enhance professional development opportunities and to ensure continued operations when critical positions become vacant. Moreover, Human Resources, through preparation of the *Agency Workforce Summary*, identified agency-wide opportunities for improving the workforce, including the development of internal procedures to complete work tasks, formal and informal methods to transfer knowledge and skill, and listing recruitment sources for identification of qualified applicants.

Agency Workgroups

Through the use of agency workgroups, TDI facilitates internal communication and helps the agency operate more effectively.

The Agency Planning and Technology Team (APTT) is an agency workgroup whose primary function is to plan agency-wide projects and processes. The APTT is comprised of representatives from each TDI program area. APTT members are appointed by the program directors based on an assessment of program staff, member responsibilities and input from the Chief of Staff. Specific activities that APTT perform include coordinating the development of TDI's program business plans, and monitoring, evaluating and reporting status of business plan projects.

The TDI Complaints Workgroup meets periodically to discuss complaint handling issues. Most recently, the group developed agency standards for all areas processing complaints. Additionally, the group is working to consolidate the multiple complaint forms into a single, agency complaint form.

The Recommendation Committee (RECO) meetings are coordinated by the Financial Program, but may be scheduled by any program area needing to discuss issues related to company supervision. The RECO team initiates regulatory intervention, including supervision or conservation, after consideration of any regulatory concerns. The purpose of the intervention is to confirm the causes of the problems, assist the company in developing a business plan to address the problems, and then to monitor the company's action steps to implement the plan. Additionally, these meetings provide a forum for sharing information regarding the marketplace and ensuring consistent regulation across agency programs.

The Phone Transfer Policy Team includes call center staff from all TDI divisions who meet quarterly to coordinate call transfer procedures and to share customer service improvement tips and resources.

The Data Encryption Excellence Project convened to optimize agency processes for data security. The group is comprised of subject matter experts, agency counsel, and information technology staff. The goals of the project are to clarify requirements for secure transmission of data, identify the most secure

data transmission methods, and implement "best practices" for transmitting specific types of data.

The Reality Check Committee facilitates management and employee discussions on agency issues. The meetings are informal and allow employees to express viewpoints on agency policies and initiatives, including facilities and parking, safety, and quality of work life. As a result of committee suggestions, cafeteria services were improved and the Hobby Building fountain was restored. The State Auditor's Office identified this model as a State of Texas best practice.

Consolidation of Functions

As part of the HB 7 integration, TDI eliminated 61 positions that performed duplicative administrative or program functions, which allowed TDI to comply with a Governor's veto proclamation funding reduction of approximately \$8.8 million over the biennium. The consolidation also helped the agency reduce non-salary expenses, such as IT maintenance costs.

TDI sought not only to achieve administrative consolidation but to improve customer service and leverage its resources by examining similar program functions. As a result of this process, all criminal fraud activities for the two entities are now performed under a single Fraud Unit at TDI. The agency adopted rules to consolidate assignment of independent review organization (IRO) requests and oversight of IRO review activities.

Statistics and Performance Measures

TDI analyzes data and performance measures to evaluate the effectiveness and efficiency of its processes. For example, the number of regulatory interventions decreased from 37 in 1997 to only 15 in 2006, which is influenced by the effectiveness of TDI solvency activities. Likewise, industry receiverships have also decreased from a high of 40 new receiverships in 1989 to less than 10 per year since 1993. TDI's programs that receive insurance industry filings also assess process efficiency. For instance, the Licensing division's processing time for more than 700,000 filings per year has moved from 5.2 days per filing in fiscal year 2002 to 2.2 days per filing in fiscal year 2004 through the present. Additionally, with staff reductions of more than 10 percent within a three year period and volume up by 35 percent for the same time period, the Property and Casualty Program improved form processing timeliness from fewer than 71 percent completed filings within 90 days in fiscal year 2000 to over 87 percent completed filings within 90 days in fiscal year 2003. Finally, in fiscal year 2006, TDI returned more than \$56 million to Texans as a result of complaint resolution, which exceeds the target for this performance measure and includes \$25.4 million to Hurricane Rita victims.

The General Appropriations Act indicates a high-performing agency is one which achieves 80 percent of the agency's annual performance measure targets, and TDI, excluding DWC performance measures, achieved 87 percent of its non-explanatory key performance measures, as reflected in TDI's *Fiscal Year 2006 Annual Performance Measure Report*.

Use of Technology

Technology has increased TDI's ability to effectively and efficiently meet its objectives. Through technology, TDI has streamlined internal and external processes, facilitated public access to non-confidential information, equipped staff with innovative tools to perform job duties, and enabled more efficient use of agency resources. Some examples of internal process improvements include: streamlining Human Resources' hiring process to reduce the number of days to hire a new employee; implementing an automated leave accounting system to eliminate paper time cards; and integrating hardware and software versions between Metro and Hobby to make technical compatibility possible.

TDI supports public access to insurance information. Throughout the agency, public workstations have

been established to facilitate access to information in lieu of submitting open records requests. Additionally, non-confidential industry information is posted to the agency's Internet website as well as educational information. Technology allows TDI to give the public the power to learn about insurance options, understand how insurance affects their lives, and use the knowledge on TDI's website to manage their insurance needs. An advantage of maintaining insurance information on the website is 24 hour access. Moreover, TDI has resource email addresses for customers to contact if additional assistance is required. Multiple employees manage email resource addresses, which enables prompt response to customers Monday through Friday every week.

TDI uses its website to inform the public about internal activities. The agency's strategic plans, biennial reports to the Legislature, and annual reports are posted to the Internet. Monthly enforcement reports, rule updates, Commissioner bulletins and orders, and media releases are posted to the website as well.

For calendar year 2006, TDI's website incurred 41,722,019 hits, which is an average of 3,476,835 hits per month. Furthermore, in TDI's *Fiscal Year 2006 Customer Service Report*, 78 percent of external customers agree that the agency's website provides useful information and services.

Innovations in technology have also allowed TDI to use resources more effectively and efficiently. For example, web applications that collect data reduce staff time spent on data entry. Currently, the quarterly and annual SB 418 data, the annual utilization review data, and independent review organization requests are collected via web applications. Other examples of resource efficiencies achieved through technological advancements include electronic storage solutions, and paperless processes including complaints, NAIC's System for Electronic Rate and Form Filing, and interstate compact review I-files, and desktop faxing capabilities.

In 2004, TDI implemented an in-house developed leave accounting system. This automated system replaced paper time cards and allowed full-time employees and managers to electronically submit, approve and track leave requests. All leave information is submitted by electronic transfer to the Comptroller of Public Accounts.

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

Yes, the agency's enabling law continues to reflect TDI's mission, objectives, and approach to performing agency functions. The agency's enabling statute is found in Texas Insurance Code, Section 31.002. This section provides that the agency regulates the business of insurance in this state and administers the workers' compensation system of this state as provided by Title 5 of the Labor Code. Additionally, the laws regulating each line of insurance or insurance-related activity and their relationship to TDI's strategic plan objectives are also available for review.

TDI has not recommended changes to its general grant of authority to "regulate the business of insurance." However, Texas Insurance Code, Section 32.022 requires TDI to submit to the appropriate committees of each house of the Legislature, a written report that indicates needed changes in laws relating to regulation of the insurance industry or any other industry or occupation under the agency's jurisdiction and that states the reasons for those needed changes. These reports summarize the changes in the laws that the Commissioner of Insurance believes are needed for TDI to continue to effectively regulate the industry. Recommendations included in these reports are designed to increase the agency's ability to:

- improve financial solvency monitoring of industry
- foster industry competition
- modernize Texas law to support the national insurance regulatory framework
- strengthen reporting and prosecution of insurance fraud
- streamline the agency's review processes
- improve availability and coverage options for consumers
- maintain adequate consumer protections.

The information below lists some of TDI's legislative recommendations that were adopted by the 78th, 79th, or 80th Texas Legislatures. Detailed information regarding all legislative recommendations is available in the respective agency reports.

Public Adjuster License

From January 2000 through December 2001, insurers estimated that losses and expenses for mold damage claims exceeded \$1 billion. To better understand the excessive claims related to mold damage, TDI conducted public hearings and two data calls, which revealed a lack of standards, accountability, and licensing of public adjusters and persons in the mold testing and remediation industry.

Accordingly, in its report to the 78th Legislature, TDI recommended licensure of public adjusters and persons engaged in mold testing and remediation. The 78th Legislature enacted SB 127 during the regular session, and TDI now licenses public adjusters. Likewise, HB 329 requires all companies and individuals who perform mold assessment or remediation to be licensed by the Department of State Health Services.

Rate Regulation

TDI's report to the 78th Legislature recommended major changes to rate regulation for multiple lines of property and casualty insurance. At the time, a dual system of rate regulation existed in which some insurers were subject to a file and use/prior approval form of rate regulation, while other insurers were exempt from any rate regulation. This dual system created a trend where an increasing number of insurers not subject to rate regulation began writing the larger percentage of property and casualty insurance available in the market and charging higher premiums for the coverage. For example, in 2001 and 2002, residential property consumers experienced dramatic increases in their insurance rates. Complaints to TDI regarding rate increases for residential property insurance increased from 283 in calendar year 2001 to 2,415 through November 2002. However, the insurer exemptions from rate regulation severely limited TDI's ability to ensure the rates were just, adequate, reasonable, not excessive and not unfairly discriminatory.

To level the playing field among insurers writing property and casualty insurance and to protect consumers from the increasing costs of coverage, TDI proposed a common system of rate regulation that would give TDI the authority to ensure rates are fair and not excessive or unfairly discriminatory. Consequently, the 78th Legislature passed SB 14, which substantially reformed property and casualty insurance rate regulation in Texas, resulting in more affordable rates for consumers.

Funding SFMO Outreach and Education

The State Fire Marshal's Office enabling law indicates that it is the responsibility of the SFMO to not only perform investigations, inspections, and licensing, but also to "use pertinent and timely facts relating to fires to develop educational programs and disseminate materials necessary to educate the public effectively regarding methods of fire prevention and safety." To further support this proactive approach to addressing fire loss, the SFMO requested and obtained statutory authority from the 78th Legislature to accept gifts, grants, and donations to help fund outreach and education efforts in Section 417.0051 (2) of

the Texas Government Code.

Interstate Compact

TDI recommended adopting the Interstate Insurance Product Regulation Compact (Compact) in its report to the 79th Legislature. The Compact is the result of a NAIC project aimed at developing a system that would provide for uniform product filings standards for insurers and efficient and expeditious approval of filings submitted in accordance with those standards. Enacting the Compact would streamline the regulation of insurance and create a mechanism that eliminates the need for insurers to obtain approvals in every state before they can begin to offer new products countrywide as well as preserve consumer protections. Having a uniform set of standards and an efficient approval process would also help insurers compete with sectors of the financial services industry that sell insurance products. Accordingly, the 79th Legislature enacted HB 2613 during the regular session and Texas is now one of 30 compacting states.

Motor Vehicle Fraud Reporting Requirements

To streamline fraud reporting requirements for all insurers in the State of Texas and align conflicting statutory requirements related specifically to motor vehicle theft and fraud, TDI recommended in its report to the 80th Legislature that Texas Insurance Code, Chapter 702 be repealed. Repealing Chapter 702 would clarify which statute governs fraud reporting requirements for motor vehicle fraud. Additionally, the repeal would enable uniformity for fraud reporting and investigations, thus ensuring the most accurate data and results to the Legislature and the public. Accordingly, HB 2569 was enacted by the 80th Legislature to abolish the Chapter 702 fraud reporting requirements.

Life-Only License

In its report to the 80th Legislature, TDI recommended adding a new “life-only” agents’ license. At the time, the only way to sell life insurance in Texas was to obtain an accident and health license. TDI’s recommendation was based on recent life insurance industry studies that showed a persistent decline in the number of career life insurance agents available to serve the public. In fact, the industry reported that since 1975 there has been a 46 percent decline in the number of new recruits selling life insurance. Additionally, the average age of a life insurance agent reportedly exceeds 55 years. Adding a “life-only” license would help increase the number of new recruits into the life insurance marketing profession and facilitate greater uniformity in producer licensing among the states (other states issue “life-only” licenses) as sought by the federal Gramm-Leach-Bliley Act of 1999. Based on TDI’s recommendation, the 80th Legislature enacted SB 1263, which adds a “life-only” license in Texas.

Non-Insurance Benefits for Certain Insurance Types

In the last two years, insurers have been including non-insurance benefits and features in insurance product filings. These non-insurance benefits are not part of the insurance contract terms or provisions, and include things such as airline mileage bonuses, identity theft protection services, monetary deposits to particular account types on behalf of the prospective insured, will and testament preparation services, and funeral advisory services.

At the time, TDI disapproved these filings because Texas law did not authorize non-insurance benefits in insurance policies. Furthermore, Texas law governing health care coverage explicitly prohibits offering an inducement (rebate) to purchase or maintain coverage that is not included in the insurance contract or evidence of coverage terms. Some insurers urged that despite regulatory prohibitions, non-insurance benefits and features should be permitted in instances in which the item offered bears a reasonable relationship to the filed product. Insurers also voiced concerns about a perceived conflict between regulatory oversight of anti-rebating statutes and insurer ability to provide prospective insureds disclosure about available health care related services and information that is not part of the terms of an insurance contract or evidence of coverage.

TDI recommended in its report to the 80th Legislature that if non-insurance benefits are permissible features in insurance policies and products, then any standards developed should require that the benefits be reasonably related to the risk, beneficial to prospective insureds, and fair and equitable to all insurers offering life, annuity, and accident and health products. The Legislature enacted HB 1847 which permits the industry trend, protects consumers, and grants TDI the authority to regulate such filings.

E. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

The functions performed by TDI are similar to those performed by other agencies; however, they are specific to insurance and do not duplicate the functions of other state and federal agencies. TDI recognizes that other state and federal agencies contribute to the agency's ability to effectively regulate the business of insurance. Therefore, TDI actively promotes communication, coordination and cooperation with these agencies. In cases where there is the potential for overlap or duplication, TDI has worked with other agencies to define roles and responsibilities and establish a protocol to minimize duplication. Supporting detail by function is described below.

Licensing, Certification, and Registration

Certain aspects of the licensing, certification, and registration function require coordination with other state agencies. For instance, criminal background checks are a standard part of this function, and TDI has coordinated this activity with DPS and the FBI. Likewise, TDI participates in projects to make licensing, certification, and renewal processes available through TexasOnline. TDI works with DIR to initiate TexasOnline access; however, the fee for using TexasOnline is administered by the Texas Comptroller of Public Accounts. Accordingly, TDI coordinates the fee collection process with the Comptroller's office.

Other agencies perform licensing, certification, and registration. For example, the Texas Department of Licensing and Regulation (TDLR) is the state's umbrella occupational regulatory agency, responsible for the regulation of 22 occupations and industries, ranging from boxing to auctioneers. While TDLR and other agencies perform licensing functions, licensing of insurance professionals is most appropriately placed within TDI because TDI also regulates the business of insurance. TDI's comprehensive knowledge of the Texas insurance industry and of laws and regulations applicable to each type of insurance and insurance-related product or service, place TDI in the best position to license insurance professionals. Another reason this function is appropriately placed is TDI's impartiality. TDI serves both the consumer and the industry, thus balancing fair competition in the insurance market with ensuring adequate consumer protections.

In cases where TDI has coordinated with other agencies to administer the licensing, certification, and registration function, TDI has entered memorandums of understandings and/or contracts to clearly articulate respective responsibilities and avoid duplication of functions.

Form, Rate and Advertising Filing Review

The agency's rate, form and advertising functions do not overlap or duplicate the functions performed by any other Texas state agency. There may be some duplication of regulatory activity regarding similar or identical products offered in other states or for federal programs, such as Medicare Advantage or Medicare Part D Plans. The duplication that exists relates to the process and procedures but not the charge given by the Legislature to ensure products offered in Texas comply with the requirements of Texas law. The form, rate and advertising review is appropriately placed within TDI because the agency is charged with regulating the business of insurance, which includes the companies as well as the products they offer.

For purposes of consumer protection, Office of Public Insurance Council (OPIC) has certain functions which overlap those of the agency, including reviewing selected form and rate filings for property and casualty insurers. OPIC's statutory authority is found in the Texas Insurance Code, Chapter 501. Additionally, OPIC represents the interests of consumers as a class on matters involving rates, rules and policy forms affecting various personal lines of insurance such as auto, homeowners, title, and credit insurance, and in rulemaking for life, accident, and health insurance. OPIC reviews and provides comments to the agency on selected form and rate filings for property and casualty insurance, while TDI reviews form and rate filings and makes recommendations for approval or disapproval. OPIC's involvement is limited to review and comment; TDI retains decision making authority with regard to form and rate filings.

Examination, Monitoring, and Solvency Intervention

The examination, monitoring and solvency intervention function is generally unique to insurance regulation and is not being performed by other Texas state or federal agencies. However, there are certain circumstances where another state or federal agency may regulate an entity for purposes other than insurance regulation such as Medicare and Medicaid; prepaid funeral merchandise or services; and continuing care retirement communities' quality of care issues.

The function is appropriately placed within TDI as the agency has the necessary level of experience to comprehend the special accounting requirements for insurance entities. Statutory insurance accounting is a unique subset within general accounting procedures, and has its own uniform accounting treatments that are applied by all state regulators. These requirements ensure that companies operating in Texas meet minimum financial standards, which provides the public a level of assurance that when they buy an insurance product, the company they purchased from meets established financial standards and will stand behind the product. Furthermore, examinations of the industry require special skill sets related to the multitude of insurance products available to consumers. TDI has developed the skills needed to examine, monitor, and intervene, as necessary, in the operations of companies engaged in the business of insurance in Texas.

Intervening in troubled companies is a function appropriately placed at TDI because it provides regulators the ability to attempt to fix conditions that are hazardous to the public before there is no recourse but to liquidate the company. Successful rehabilitations ultimately protect the policyholders and the general public by avoiding market and personal disruptions caused when companies are unable to meet obligations and must be liquidated.

TDI manages the liquidation of insolvent insurers, either directly or by contracting with special deputy receivers. TDI also oversees insurance guaranty associations, which provide a safety net for policyholders by paying claims of impaired carriers. The Commissioner of Insurance as receiver marshals the assets of receivership estates and minimizes expenses to reduce the burden ultimately borne by the general public.

TDI works with other regulators as needed, coordinating efforts to avoid duplication and share necessary information. For example, TDI coordinates with other state insurance regulators regarding mergers and acquisitions of insurance companies and regarding examinations of multi-state insurer groups. Additionally, TDI cooperates with the Texas Department of Banking and United States Securities and Exchange Commission to regulate holding company transactions. TDI and the Health and Human Services Commission (HHSC) have a memorandum of understanding regarding examinations of Medicaid managed care entities.

Research and Analysis

Generally, there is not any overlap or duplication of research efforts by other state or federal agencies. While there are some non-governmental entities that provide certain research studies and findings, these activities are not tailored to the needs of the Texas insurance industry and/or do not provide the state-specific and detailed information that is crucial to determine system impacts from a process, operational, financial or regulatory standpoint. Workplace safety data collection and research efforts (Survey of Occupational Injuries and Illnesses/Census of Fatal Occupational Injuries) performed by DWC are funded by the Bureau of Labor Statistics (BLS), but do not duplicate the activities of that agency.

Each key research function is appropriately placed in TDI. The market analysis functions conduct in-depth analysis of the Texas insurance market and perform special studies to assist in policy decisions. This function is critical to the oversight of the insurance industry, which is licensed and regulated by TDI. REG also provides a structured analysis of critical policy issues associated with the workers' compensation system, which is regulated by TDI. Finally, workplace safety data collection and research functions align with the goal of providing safe workplaces and serve to tailor the agency's education efforts to address Texas specific industry hazards or needs.

Data exchange efforts and communications with state agencies, such as the Texas Workforce Commission, Department of Assistive and Rehabilitative Services (DARS), and private research entities, such as the Workers' Compensation Research Institute and the National Council on Compensation Insurance, ensure that duplication of research efforts does not occur. Additionally, the grant application and administration processes related to data collection or analysis for BLS purposes prevents duplication of efforts and activities.

The State Fire Marshal's Office collects fire information in its Texas Fire Incident Reporting System (TEXFIRS), which reports data to the National Fire Incident Reporting System (NFIRS). Participation by Texas fire departments in the TEXFIRS system is voluntary, and the Texas Commission on Fire Protection (TCFP) assists the SFMO with collecting this information by requiring fire departments who wish to apply for emergency grants and loans to report to the system.

Education, Outreach, and Customer Assistance

While the agency's education, outreach and customer assistance function does not duplicate the functions of other state and federal agencies, other state agencies do provide information about services that may be covered by an insurance product or policy. For instance, the Department of Aging and Disability Services (DADS) provides long-term care education, outreach and customer assistance services to Texas residents. TDI also educates the public about long-term care; however, TDI's focus is on insurance, while DAD's focus is on long-term care services.

The Health Insurance Counseling and Advocacy Program (HICAP) is the federally-funded State Health Insurance Assistance Program (SHIP) for Texas. DADS receives SHIP funding from the Centers for Medicare & Medicaid Services (CMS) then delegates administration of the SHIP via an interagency contract to fund one position at TDI to coordinate HICAP. TDI partners with DADS and the Texas Legal Services Center to provide information about public benefits and private health insurance to seniors and persons with disabilities. The TDI HICAP coordinator trains Area Agency on Aging (AAA) volunteer benefits counselors, located in 28 AAA offices statewide, on Medicare supplement insurance policy benefits, exclusions, and coverage language, and on long-term care options, including long-term care insurance. Also TDI publishes and distributes Medicare Supplement and Long Term Care Insurance handbooks and rate guides to help consumers shop for these coverages.

TDI often coordinates with other state agencies to provide educational seminars and health fairs. By coordinating this effort, consumers benefit from a single point of contact to learn about the services of multiple agencies.

The State Fire Marshal's Office is statutorily charged with educating the public on fire prevention and safety practices. To meet this goal, SFMO develops and distributes fire prevention and education materials to communities who do not have their own programs. Activities that support SFMO's outreach efforts include the Juvenile Fire Setter Intervention Program, TEXFIRS, Insurer Services Office (ISO), public outreach and safety education and the SFMO Fire Safety House. The Texas Commission on Fire Prevention (TCFP) may be perceived as a fire prevention regulatory agency; however, their education efforts focus on firefighters and are limited to providing research materials and setting minimum training standards for firefighter health and safety.

The activities performed under this function are most appropriately placed within TDI because of the agency's experience and knowledge of insurance products and services and fire prevention programs. Additionally, fire prevention and safety outreach promotes the agency's goals of reducing the loss of life and property due to fire and decreasing insurance industry loss costs.

Complaint and Dispute Resolution

Other state and federal agencies may accept and resolve certain insurance-related consumer complaints. However, their complaint resolution activities do not duplicate those of TDI. Agencies that receive complaints about insurance forward them to TDI or refer consumers to TDI's web page and toll-free Help Line. Likewise, TDI may refer consumers to another agency as appropriate for assistance with specific types of complaints. In some instances, TDI may receive a complaint for which TDI has authority to review certain aspects while another agency has jurisdiction over other aspects. To ensure that policyholders' complaints are addressed promptly by the agency that can assist them, communication and coordination between TDI and other agencies regarding complaint resolution is a priority. Some examples are listed below.

- The Office of Public Insurance Counsel represents consumers as a class on matters involving rates, rules, and forms for property and casualty, title, and credit insurance, and on matters involving rules and forms for life, accident, and health insurance. OPIC does not have statutory authority to handle individual consumer complaints regarding insurance issues and forwards such complaints to TDI.
- The Office of Injured Employee Counsel educates and provides general assistance to injured employees regarding the workers' compensation system and refers complaints regarding workers' compensation to the appropriate agency or licensing board. OIEC refers complaints regarding workers' compensation claims, benefits, and fee payment disputes to TDI.
- The Office of the Attorney General enforces consumer protection laws. The OAG refers consumers who have insurance complaints to TDI. Also the OAG and TDI may work together to address an insurance-related issue. A recent example is advertising that promotes a "low cost health insurance plan." The product being marketed is not insurance but rather a discount card for health services. TDI provided copies of complaints regarding such advertising to the OAG and served as a resource during the OAG's investigation.
- The Texas Health & Human Services Commission regulates the Children's Health Insurance Program (CHIP) and TDI refers complaints other than claim-related complaints to HHSC. TDI handles CHIP claim complaints and HHSC refer claim-related complaints to TDI.
- The U.S. Department of Labor (DOL) resolves complaints about certain employer-based health plans, also called self-funded plans, in accordance with the Employee Retirement and Income

Security Act (ERISA). When TDI receives complaints from medical providers, TDI writes to the carrier to determine what type of plan is involved. If a self-funded plan is involved, TDI refers the provider to DOL's Employee Benefits Security Administration. DOL also oversees employer compliance with the Consolidated Omnibus Budget Reconciliation Act (COBRA), which is a federal law regarding the continuation of health coverage. If a group plan is subject to COBRA, the employer is required to notify all covered employees and their dependents of their rights under COBRA. If an employer fails to provide the required COBRA notice to a former employee, TDI refers the consumer to DOL's Pension and Welfare Benefits Administration.

- Medicare Advantage health plans are regulated by CMS. However, TDI has authority over the marketing practices of agents who sell these plans. Recently a consumer complained about printed marketing materials involving both Medicare supplement insurance (over which TDI has jurisdiction) and Medicare Advantage coverage. TDI sent a copy of the complaint to CMS. CMS and TDI reviewed the content over which each had authority.

Additionally, TDI licenses and regulates IROs and assigns IRO requests to resolve prospective medical necessity disputes in HMO cases. DWC also assigns IROs to resolve prospective and retrospective medical necessity disputes of workers' compensation cases. Following the passage of HB 7 (79th Legislature), TDI modified the medical necessity dispute process to eliminate these dual systems for making IRO assignments for both group health HMOs and workers' compensation. Effective January 2006, the two functions were combined into one IRO process.

Enforcement, Fraud and Investigations

Certain state and federal entities perform functions similar to those of TDI's Enforcement Program, Fraud Unit, and SFMO.

The Enforcement Program and the OAG both have the authority to pursue deceptive trade practice cases against insurers. However, since insurance regulation falls within this agency, this function is appropriately located at TDI.

TDI's Enforcement Program also shares regulation of certain types of health plans with the federal DOL. In particular both agencies regulate multiple employer self-funded welfare arrangements ("MEWAs"). However, DOL focus is upon breaches of fiduciary duty, while TDI focuses upon licensure and the regulation on MEWAs.

The Fraud Unit is the only state or federal entity in Texas specializing in the investigation of insurance fraud for criminal prosecution. Those reporting insurance fraud are asked to record whether or not another law enforcement agency was notified of the same event or may be actively investigating the same incident. Additionally, staff routinely communicates with state and federal prosecutors during investigations to minimize the potential for duplication of efforts by other law enforcement agencies.

Fire/arson investigations are conducted upon request from local officials, frequently in communities that do not have the resources. On occasion, certain communities may request assistance from TDI's investigation's personnel to augment their own capabilities. Services such as canines and/or the arson lab are requested if they are not available in certain jurisdictions.

As of September 1, 2001, SFMO became responsible for investigating all line-of-duty deaths involving fire-service personnel in Texas. TCFP assists the SFMO with these investigations. When requested, the TCFP provides expertise while TDI conducts the investigation.

Inspections and Consultations

When a request for an inspection is received, SFMO staff first check to see if the affected city/county has a fire marshal. If so, the requester is asked to contact that individual. If the inspection focuses on a state-owned facility, the SFMO conducts the inspection, as local fire marshals lack jurisdiction.

Other state agencies, such as DADS, have staff that conduct fire safety inspections as part of that agency's licensing procedures. Additionally, each DADS facility is required to have a fire inspection by either a local fire marshal or by the SFMO when no local fire safety inspection program is present.

While not identical or overlapping services, functions of the Windstorm Inspections Section of the Property & Casualty Program are sometimes confused with those of TWIA. While TDI windstorm inspectors and appointed engineers inspect a structure to determine compliance with windstorm building codes, TWIA employs contract inspectors to determine if a structure meets TWIA underwriting guidelines.

The Occupational Safety and Health Administration (OSHA) provides compliance assistance to help employers understand safety regulations and general safety issues, similar to the activities performed by the Division of Workers' Compensation OSHCON consultants. However, OSHA does not provide consultative services on-site to employers in the same manner as the OSHCON program. The OSHCON program is partially funded by a grant from OSHA to perform these services and to supplement the OSHA efforts related to workplace safety.

Support Services

The support function includes administrative and legal support services, which are similar to those in other state agencies. TDI's support function specifically serves TDI staff and does not generally duplicate the functions of another state or federal agency in terms of scope and customers served. The advantage of TDI administering its own support services functions is that it allows the agency to effectively allocate resources according to agency-specific priorities.

To reduce duplication of function and achieve economies of scale, the 79th Legislature consolidated certain support services affecting TDI operations. HB 1516 established a state data center, which required TDI and other state agencies to transfer IT staff and activities to the vendor responsible for administering the project. Additionally, HB 7 abolished TWCC and created DWC as a division within TDI. HB 7 also created OIEC as a separate agency administratively attached to TDI. The bill required consolidation of administrative functions of DWC and TDI. In addition, a Governor's veto proclamation created funding reductions for TDI of approximately \$8.8 million over the biennium. As a result, TDI consolidated support services activities, eliminating 61 positions that performed duplicative administrative or program functions.

In cases where TDI has coordinated with other agencies to administer support services, TDI has entered memoranda of understandings and/or contracts to clearly articulate respective responsibilities and avoid duplication of functions. For example, DIR and the Texas Building and Procurement Commission enter into contracts with vendors on behalf of all state agencies and TDI contracts with those vendors through the statewide contracts when appropriate. Additionally, TDI calculates and sets the rates to be charged insurance entities for maintenance taxes; the Texas Comptroller of Public Accounts bills and collects the taxes. TDI and the Comptroller entered a memorandum of agreement to delineate responsibilities of both parties relating to the sharing of tax information.

F. In general, how do other states carry out similar functions?

TDI's functions are similar to those performed by other state insurance departments. The following paragraphs describe how, in general, other states carry out TDI's nine key functions.

Licensing, Certification, and Registration

Each state insurance department or other financial regulatory agency licenses, certifies and registers persons engaged in the business of insurance. Additionally, all states have a fire marshal's office. Most large state fire marshal offices perform similar functions, including licensing, certification and registration.

Form, Rate and Advertising Filing Review

In general, states vary in their approach to form, rate and advertising review ranging from states that review and approve all forms, rates and advertising to states that require filings but do not review forms and rates. The Interstate Compact, which is a collaborative effort of compacting states, is taking the approach of reviewing and approving all forms for life and annuity; form, rates and advertising for long-term care; and form and rates for disability. Texas is one of a few states that proactively review insurance advertising appearing on the Internet.

Examination, Monitoring, and Solvency Intervention

Each state and territory of the United States, as well as the District of Columbia, regulates the business of insurance in a manner similar to Texas. The functions performed by TDI are typically performed by each state insurance department or by another financial regulatory agency with roughly equivalent powers and duties.

Research and Analysis

For market analysis, most other states use national advisory organizations such as ISO or Independent Statistical Services, Inc. to access statistical experience. In contrast, Texas designates statistical agents and promulgates statistical plans and data calls in order to customize research to Texas specific information needs. For workers' compensation research, several large states retain research functions as a component of the agency in charge of administering the system (California, Florida, Minnesota, Oregon and New York). For workplace safety information, most states follow a similar model as the one implemented in Texas.

Education, Outreach, and Customer Assistance

According to the NAIC *2005 Insurance Department Resources Report* (issued in 2007), most state insurance regulatory agencies have a consumer toll-free hotline, and many provide consumer information in print, or via a website to help consumers understand the large number of insurance options available to them. This report further notes that some states, including Texas, publish rate guides that help consumers get the best value when purchasing insurance.

Complaint and Dispute Resolution

Complaint Resolution

The NAIC's *2005 Insurance Department Resources Report* addresses state insurance departments' processes for complaint resolution. Each state's insurance regulatory agency has a procedure to receive and resolve consumer complaints. Complaint resolution typically includes procedures for:

- receiving complaints and recording them in a database
- coding key data about each complaint, making summary data available to the public, and reporting data to oversight agencies

- contacting the insurance carrier, agent, or other entity being complained about then reviewing this information against applicable statutes and rules
- providing complainants with information about the final resolution of the complaint.

Dispute Resolution

All states have some form of workers' compensation law that includes an administrative dispute resolution function. However, each state's dispute resolution process is tailored to the manner in which workers' compensation claims are administered and adjudicated in each individual jurisdiction.

Enforcement, Fraud, and Investigations

The majority of states utilize an agency devoted primarily to insurance issues to carry out the enforcement, fraud and investigations function. However, certain states combine these activities with other regulatory agencies such as the banking, securities or commerce departments. Furthermore, some states are more reliant than Texas on their attorney general for insurance regulation.

Inspections and Consultations

TDI has explored how other states perform insurance-related inspections and consultations. The scope and laws governing the function vary considerably; therefore, the findings are listed by TDI activity below.

Windstorm Inspection Program/Engineering Section

Most hurricane prone states have state agencies involved in the adoption and inspection of statewide building codes. North Carolina, South Carolina and Florida specifically require plan review of structures and certification of inspectors, and are involved in various activities to mitigate damages as a result of high wind events. Florida also requires licensing of builders and roofers, which Texas does not.

Loss Control Inspection

Most states have a specific review of loss control services for workers' compensation insurance; however, Texas, in addition to workers' compensation, has statutorily required loss control requirements for commercial auto, professional liability for hospitals, professional liability for insureds other than hospitals, general liability and medical professional liability insurance. Most large insurers, as a result of Texas requirements, provide these services to all of their policyholders in other states.

Commercial Property Oversight

Approximately 17 percent of state insurance departments continue to conduct commercial property inspections, utilizing state inspectors to develop commercial loss costs. This inspection function was privatized in Texas in 1994, with the provision for oversight by TDI. ISO conducts commercial property inspections in all other states.

Amusement Ride Compliance

Most other states have regulatory requirements for amusement rides; however, there is no consistent nationwide approach to amusement ride regulation. Examples agencies in other states that may regulate amusement rides are: agriculture departments, public safety departments, state fire marshal offices, treasury departments, labor departments, and commerce departments. Most state regulations are very similar to TDI amusement ride regulations.

Voluntary Inspection Program

TDI is not aware of any other program in the nation that certifies or provides a license to an individual to inspect the condition of a structure for residential property insurance.

State Fire Marshal's Office

All states have a state fire marshal's office. Most large state fire marshal offices perform similar functions to those of the Texas SFMO, as evidenced by an eleven state comparison study conducted in FY 2004. The results of this study are available for review.

Safety Inspections and Consultations

Other states have similar approaches to addressing the need to conduct inspections, but the approaches are tailored to the individual state's regulatory authority for imposing and enforcing safety regulations based on their relationship with OSHA. Twenty-four states have passed legislation to create state plans, which combines the ability to enforce safety violations and perform the consultations or inspections. In contrast, Texas conducts consultations but must refer potential safety violations to OSHA for enforcement purposes. For comparison purposes, Florida's program is structured similar to Texas, California's program is a state plan (with enforcement and consultations), and New York is a state plan but is limited to public sector employers.

Support Services

Other states carry out the support services function in a manner similar TDI and Texas agencies. Some states (e.g. Pennsylvania) have opted to consolidate technology services, similar to the Texas data consolidation project, mandated by HB 1516, 79th Legislature, Regular Session; others have consolidated and centralized aspects of human resource management and payroll at the state level (e.g. Wisconsin).

G. What key obstacles impair your agency's ability to achieve its objectives?

TDI is able to achieve its strategic objectives; however, some obstacles that impair the agency's ability to *effectively or efficiently* achieve its strategic objectives fall under four broad categories: agency integration, technology, resource management, and statutory authority. The paragraphs below explain why these areas are obstacles and how the agency strives to make such obstacles opportunities for future improvements.

Agency Integration

HB 7 was passed during the regular session of the 79th Legislature. This sweeping legislation abolished TWCC, established DWC as a TDI program, and created a new state agency administratively supported by TDI, the OIEC. Such drastic changes required extensive consolidation of functions, particularly support functions, such as human resource, financial, and information technology services. While TDI successfully completed the majority of the HB 7 integration requirements, nearly two years later, the agency is still involved in certain aspects of the integration. The most pressing issues involve the two separate headquarter locations of TDI and DWC, DWC's TXCOMP system integration, staff familiarity with the operations and responsibilities of both entities, and further consolidation of similar functions or processes.

Technology

Another significant bill passed during the regular session of the 79th Legislature was HB 1516, which relates to the consolidation of state data centers. TDI's Information Technology Services worked with DIR and the various private vendors to transition many technology-based services to the state data center as of April 1, 2007. The new arrangement, which guaranteed the same level or quality of service, should have been transparent to TDI. However, TDI's dependency upon the vendor has created a new obstacle for the agency when addressing system operability issues. In June 2007, TDI incurred a limited disaster involving the simultaneous failure of three servers. These servers store agency data and enable many of the agency's automated processes. The vendor was not able to respond to the disaster in a timely fashion, and services to customers were impacted for more than one week. While TDI's disaster recovery plans

included manual procedures to mitigate the impact on customers, TDI identified a need to further explore alternate procedures or activities in order to effectively respond to future disruptions in services.

TDI maintains multiple, in-house developed and purchased systems and databases related to the regulation of the insurance industry and workers' compensation. TDI systems and databases are not integrated, making it difficult to assemble comprehensive data about a company, network, third party administrator, or trading partner. Staff may manually enter the same data from different programs into multiple systems, resulting in duplicate data. Additionally, to maintain these systems and ensure agency compliance with NAIC state and federal reporting requirements, TDI must dedicate significant IT resources.

With the additional support and integration requirements of HB 7, TDI's ITS Division has had to shift its resources away from existing application maintenance and enhancements, thus magnifying the need for a more efficient and integrated computing environment that meets customer needs. Implementation of such a system could represent a significant cost savings to the agency, and ITS staff could devote more time to automation needs that are unique to TDI.

Managing with Resources

As a state agency, TDI's budget and staffing-levels are determined by the Legislature. Consequently, TDI must operate with the resources allocated. TDI has decreased staffing levels and reduced management layers to meet mandated budget reductions and staffing ratios. Additionally, TDI has identified opportunities to operate more efficiently and meet increased statutory responsibilities.

In addition to finding new ways to manage workload, TDI must prepare for retiring employees. With 42 percent of managers and 33 percent of all employees eligible for retirement in the next four years, the agency is faced with a large potential for loss of experience and institutional knowledge. To ensure the knowledge base of the agency's future workforce, HR has worked with agency programs to begin developing succession plans in order to ensure minimal disruption to program operations in the event of separation by managers or other key staff. Additionally, TDI identified strategies for addressing this obstacle in its agency workforce plan for FY 2007-2011.

Another obstacle facing the agency relates to the specialized and technical nature of certain TDI positions. TDI has experienced difficulty filling such positions due to lack of competitive salaries and labor market competition. Hard-to-fill positions include actuaries, attorneys, information technology staff, financial examiners, fraud investigators, engineers, nurses, safety professionals, and budget analysts. TDI has established a recruitment plan, which includes partnerships with local universities and colleges as well as identification of recruitment resources for targeting potential applicants.

Statutory Authority

As previously mentioned, TDI makes statutory recommendations to the Legislature biennially. The majority of TDI's suggestions are enacted. However, there are statutory issues that impair the agency's ability to effectively and efficiently achieve its strategic objectives. One problem is the lack of authority for the Commissioner of Insurance to issue directives and orders in catastrophe situations, which impedes protection of the public and delays response time to address both industry and consumers needs in catastrophe situations.

Another obstacle that impairs the agency's ability to meet its strategic objectives is the lack of uniform, mandated building codes in the designated catastrophe area. At this time, the windstorm building code and certification process is voluntary, and building codes in the coastal regions vary. Mandatory building codes would help ensure that buildings or structures are built to a recognized model building code, and would improve eligibility for windstorm and hail insurance through TWIA.

H. Discuss any changes that could impact your agency's key functions in the future (e.g., changes in federal law or outstanding court cases).

A number of external changes may impact TDI's key functions including changes in federal or state law, court cases, etc. This section addresses these areas, with emphasis on possible changes related to federal legislation.

Federal Legislation & Regulations

The federal government delegated the regulation of insurance to the states under the McCarran Ferguson Act and more recently the Gramm-Bleach-Bliley Act. This delegation to the states is subject to change through the enactment of subsequent federal law. TDI monitors pending federal legislation because changes in federal law may preempt state law. As one example, certain insurance trade associations have been calling for federal reform through the creation of an optional federal charter for insurance companies. The states have generally responded that state-level regulation is more appropriate. The 80th Texas Legislature passed SCR 60 opposing federal regulation of insurance, which may be considered by the 110th U.S. Congress.

Federal legislation monitored by TDI includes the following:

- The National Insurance Act would form an optional federal charter where insurers could select whether they are regulated at the state or federal level. It is modeled after the regulation of the banking industry and creates an Office of National Insurance within the Treasury Department. It provides for the appointment of a national insurance commissioner that is charged with chartering insurers and insurance producers, exclusively regulating and supervising the operations and solvency of federally chartered or licensed insurers and producers on a uniform, nationwide basis, including the conduct of such insurers and producers with policyholders; and protecting the interests of policyholders by establishing a comprehensive scheme for the receivership of federally chartered insurers that requires federally chartered insurers to participate in qualified state guaranty funds.
- State Modernization and Regulatory Transparency Act (SMART) would generally set certain floors for the regulation of insurance and pre-empt state actions in other areas. State regulators, through the NAIC, have expressed three primary concerns with the draft legislation:
 - federal preemption of state consumer protection laws
 - federal supervision of state regulation
 - mandatory federal rate de-regulation.
- Terrorism Risk Insurance Act of 2005 (TRIA) requires that commercial property and casualty insurers make terrorism insurance coverage available to their policyholders. The Property and Casualty Program has been reviewing policy form, endorsement, and rate filings in relation to terrorism coverage under the federal Terrorism Risk Insurance Act of 2005.
- Changes in Medicare, CHIP and Medicaid can impact TDI monitoring and enforcement against regulated entities that perform services for these programs. For example, when CMS created Medicare Advantage and Prescription Drug Programs, they preempted all the quality of care functions that are normally regulated by the Health and Workers' Compensation Network and Quality Assurance Division. Regulation and oversight of Medicaid and CHIP contracting HMOs

are coordinated with HHSC to lessen redundancy of oversight. TDI recently entered into an MOU regarding the examination functions for Medicaid and CHIP HMOs.

- The federal Health Insurance Portability and Accountability Act (HIPAA) enacted by Congress in 1996, establishes numerous requirements for regulated benefit plans and created national standards for a variety of electronic healthcare transactions. The law also addresses security and privacy requirements for entities that have access to private health information. CMS and the Office for Civil Rights (OCR) periodically issue new regulations, bulletins, and updates regarding various HIPAA provisions. In some cases, these changes require revisions in state insurance laws or TDI regulations. Most recently, CMS announced delays in implementation of the National Provider Identifier (NPI) compliance requirements, which immediately impacted TDI rules related to prompt payment of claims. Future regulations are expected that will affect electronic claim transactions, electronic health records and health ID cards.
- Insurance Industry Anti-Trust Enforcement Act (S 4025). This legislation is an attempt to revise McCarran Ferguson, along with all of the McCarran Ferguson amendments. This bill would change the way the states interact with the Federal Trade Commission (FTC), in that it would change state authority to regulate antitrust activities of insurers. Currently Congress has reserved the regulation of insurers to the states and only lets the FTC intervene if states fail to actively supervise insurers. The proposal would allow the FTC to oversee insurer antitrust activities except in a couple of areas where the state authority is maintained in a safe harbor.
- Non-admitted Insurance and Reinsurance Reform. This bill would federally preempt how the business of surplus lines insurance is regulated and how related taxes are collected and allocated. The bill would also provide that only the domestic regulator of an insurer could review reinsurance transactions (which reduce the amount of funded reserves); and, such determination would be required to be accepted by all other states in which the insurer does business.
- Fairness in Asbestos Injury Resolution Act. The intent of this draft bill is to create a more rational asbestos claims system. The NAIC has expressed support for a solution that provides benefits for injured employees but would not excessively harm the industry in the process.
- Small Business Health Fairness Act (H.R. 525 and companion bill S. 406). This bill, generally referred to as the Association Health Plans (AHP) Act, would allow small businesses to band together across state lines to negotiate lower health insurance costs for participants. The legislation would preempt certain state laws. The industry is worried that the AHPs would “cherry-pick” the healthiest individuals.
- Military Personnel Financial Services Protection Act. This bill appears to relate to the recent inappropriate activities concerning sale of life insurance products on military installations. The bill requires NAIC to work with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices. The bill affirms that any state law or regulation regarding the business of insurance shall apply to insurance activities conducted on federal land or facilities, including military installations.
- Bundling of Real Estate Services. The federal Department of Housing and Urban Development is considering rules to allow the ‘bundling’ of real estate services, including title insurance, to achieve volume discounts. This action may impact TDI’s ratemaking ability, as rates in Texas are currently set by the Commissioner of Insurance, and not subject to discounts.

- Changes in the federal budget could impact the ability of the agency to fulfill the OSHA and BLS grant requirements, especially if appropriations are diminished. Changes in federal and state safety laws could impact how DWC interacts with employers and what information TDI provides to them.

State Legislation

Laws adopted by the Texas Legislature obviously can impact TDI's key functions. TDI implements any number of new statutes enacted each session. As one example, HB 3430, as passed by the 80th Legislature, changes how small businesses must be addressed in the administrative rule-making process. Specifically, the definition of small businesses was broadened and revisions were made to the requirements for considering possible alternatives for those businesses (rather than the proposed rules). Many TDI rules would impact the small-businesses as defined in this bill, which could lengthen time needed for TDI to adopt rules and/or require additional staff resources. TDI is working with the OAG in the development of guidelines to assist state agencies in the implementation of this legislation.

Laws that specify how state agencies administer support services could impact the support services function. Requiring TDI to provide support services for other agencies affects resources currently devoted to TDI priorities. TDI would have to reallocate resources to address the additional workload from such laws. Additionally, state and federal laws regarding the handling of public and confidential information would impact how TDI administers its open records program. TDI is committed to protecting personal and confidential information as required by law. Achieving this goal can require special procedural, policy and technical solutions.

Litigation

Workers' Compensation

The outcome of litigation may similarly impact TDI's key functions. Litigation of a routine nature is typically on going at any point. At this time, however, no litigation of a substantial nature was identified that may have a material impact on how TDI functions. This can and may change, and TDI monitors this area for potential impacts. For example, this self-evaluation report generally describes TDI exclusive of the DWC, since DWC's sunset review was deferred. However, the DWC is directly or indirectly involved in a number of litigation cases whose outcome may impact how other parts of TDI function. For example, cases are pending related to DWC's interpretation of its "Stop-Loss Method" that may impact carriers subject to regulation by TDI's Financial Program. As another example, the outcome of other DWC cases may impact the assignment of requests for IROs, which is administered by TDI's Life, Health & Licensing Program.

Rebating

Pending enforcement actions at TDI concerning rebating may ultimately result in court cases to determine the scope and extent of TDI's authority to prohibit them. At present, there are no pending court cases. Pending enforcement actions concern a wide array of rebating activities, from outright gifts to trade association sponsorships. Licensees argue that these are legitimate promotional activities, rather than kickbacks. TDI has taken the position that these activities constitute prohibited rebates. If TDI is successful in these enforcement actions, the losing licensee may appeal to obtain a court ruling to clarify the law.

Residential Mortgage Fraud

Fraudulent land flips, a type of residential mortgage fraud, artificially inflate land values with bogus appraisals, resulting in under-collateralized loans which often go into default. This activity not only hurts lenders, it also leaves vacant houses which have a negative impact on the legitimate values of properties in the surrounding neighborhood. The FBI is taking an interest in fraudulent land flips in Texas and elsewhere. Staff in the Title Division recently assisted the FBI in developing investigations and serving

as expert witnesses. HB 716, effective on September 1, 2007, requires that each applicant for a home loan be notified of penalties for making false or misleading written statements. The bill requires the reporting of suspected fraudulent activity, establishes a residential mortgage fraud task force, and makes other statutory changes to combat mortgage fraud. Beginning FY 2008, TDI has funding for three additional full time equivalent positions to implement HB 716 provisions.

I. What are your agency's biggest opportunities for improvement in the future?

TDI strives to provide excellent customer service and, thus, the agency chooses to focus its opportunities for improvement on activities that benefit TDI's diverse customer base. TDI's biggest opportunities for improvement center on enhancing customer services and include: empowering consumers, embracing technology, and optimizing the workforce.

Empowering Consumers

TDI is exploring educational opportunities to expand consumers' insurance decision-making power. Ideas to improve educational and outreach activities include enabling e-quotes, establishing partnerships with schools, increasing field presence, broadening video streaming/conferencing capabilities, initiating website redesign, and adding new website services.

A short-term customer service enhancement includes consolidating multiple complaint forms into a single agency complaint form to eliminate customer confusion on which form to use for a particular insurance-related concern. A cross-agency workgroup is defining and evaluating complaint form content and presentation to remove any customer-perceived barriers to filing a complaint with TDI.

Technology Innovation

One technology improvement includes implementing a more efficient rate and form review and approval process that maintains consumer protections, gives consumers more timely access to competitive, approved product options, and streamlines industry filing requirements by adhering to national uniformity standards. TDI currently accepts certain filings through the NAIC's System for Electronic Rate and Form Filing and the Multi-State Review. Expanding the lines of insurance submitted electronically could achieve a more efficient regulatory review process.

Feasibility studies to consolidate agency databases are underway for the biennium. The anticipated benefits of database consolidation are eliminating duplicate data entry, reducing the number of TDI-maintained applications, facilitating access to information, and improving TDI disaster recovery planning. Additionally, a comprehensive centralized database would allow staff to review a company's history of regulatory actions and any pending significant issues. Having access to this information prior to initiating a communication or enforcement action would reduce the potential for inconsistent regulatory direction among agency programs.

TDI has automated some of its paper-intensive processes and, in so doing, has created efficiencies that have inspired agency interest in further automation opportunities. Automation projects enhance customer services by reducing the time it takes to complete processes. They also improve access to information, which facilitates the agency's ability to process open records requests. Additional technology-based customer service enhancements include viewing complaint status online, implementing imaging storage solutions, and increasing web-based or other electronic applications for complex financial filings, industry data calls, consumer and industry surveys, and consumer complaints.

An innovative approach to providing enhanced customer services considers telecommuting as an alternative solution to the typical eight to five, Monday through Friday work environment. Customers

require service availability at times other than routine hours of operation. TDI has initiated a pilot telecommuting project in its Consumer Protection Program. Because of the success of the pilot program, TDI will consider telecommuting opportunities for other employees throughout the agency. A well-planned telecommuting program could allow TDI to offer customers expanded hours of operation, while galvanizing employee morale and loyalty.

Optimizing Workforce

In addition to its funded goals, TDI has an indirectly funded goal to “value the contribution of each employee to TDI’s mission and to the diversity of the agency.” Access to appropriate professional development and communicating to employees their value in the organization through meaningful feedback are essential objectives that support achieving this goal.

TDI programs consider workforce planning opportunities as part of the business planning process. This assessment has led to professional development measures agency wide, such as cross-training, succession planning, leadership development, and recruiting activities. In light of increasing expectations to provide 24 hour services with reduced staffing levels, TDI has an opportunity to optimize its workforce. Combining technological innovations for routine functions with a highly-skilled, but smaller workforce would allow TDI to more effectively and efficiently serve the public.

Recent surveys of TDI staff identified internal communication as an area for improvement. The employee involvement survey conducted in March 2007 revealed that employees indicate that their performance could improve with increased communication about division goals, priorities and cross-divisional issues. Additionally, TDI employees responding to the 2006 Survey of Organizational Excellence rated internal communication as an area for improvement. To advance internal communication, TDI has identified the following opportunities: optimizing use of agency Intranet; consolidating regulatory databases; circulating all-employee emails regarding important agency issues, incorporating additional frequently asked questions into the agency newsletter, increasing distribution of program bi-weekly reports to the Commissioner of Insurance.

While TDI recognizes that DWC will undergo its own Sunset review in 2011, workers’ compensation improvements will be completed prior to 2011. Opportunities for improvements include promoting performance based oversight in the workers’ compensation system, further business process improvements to the TXCOMP system, streamlining dispute resolution, further consideration of consolidating similar functions, and centralizing additional field office functions as appropriate.

J. In the following chart, provide information regarding your agency’s key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.

Texas Department of Insurance Exhibit 2: Key Performance Measures – Fiscal Year 2006				
Measure Code	Key Performance Measures	Target	Actual Performance	Annual Target Percentage
1.1.1 op 1	Number of Inquiries Answered	1,000,000	995,108	99.51%
1.1.1 op 2	Number of Rate Guides Distributed	652,743	941,074	144.1%

Texas Department of Insurance				
Exhibit 2: Key Performance Measures – Fiscal Year 2006				
Measure Code	Key Performance Measures	Target	Actual Performance	Annual Target Percentage
1.1.2 oc 2	Percent of Agent License Filings Completed within 15 Days	96%	96%	100%
1.1.2 oc 3	Percent of Statutory Rate & Form Filings Completed within 90 Days	87%	88%	101.15%
1.1.3 oc 4	Number of Automobiles Covered by Voluntary Policies as a Percent of Total Passenger Automobiles in Underserved Markets	69%	75%	108.70%
1.1.3 oc 6	Percent of Personal Auto & Residential Property Form Filings Completed in 60 Days	95%	95%	100%
1.2.1 op 1	Number of Complaints Resolved	32,200	26,255	81.54%
1.2.1 ef 1	Average Response Time (in Days) to Complaints	38	33	86.84%
1.2.3 op 1	Number of Referrals of Alleged Insurer Fraud to State & Federal Prosecutors	70	71	101.43%
1.2.4 oc 1	Percent of Licensees Who Renew Online	34%	56%	164.71%
2.1.1 oc 1	Percentage of Statutorily Mandated On-Site Examinations Conducted During the Fiscal Year	100%	100%	100%
2.1.1 oc 3	Special Deputy Receiver receivership Asset Recovery Expenses as a Percent of the Total Dollars Collected by Special Deputy Receivers	15%	16%	106.67%
2.1.1 oc 4	Average Number of Days from Company “At Risk” Identification to the Date of Solvency-Related Intervention	31	23	74.19%
2.1.1 oc 6	Percent of Companies Rehabilitated after TDI Solvency-Related Intervention	18%	25%	138.89%
2.1.1 op 2	Number of Entities Receiving Solvency-Related Intervention	13	9	69.23%
2.1.1 op 4	Number of Holding Companies Transactions Reviewed	751	804	107.06%
2.1.1 op 5	Number of actuarial Examinations Completed	80	79	98.75%
2.1.1 op 6	Number of On-Site Examinations Conducted	160	156	97.50%
2.1.1 ef 1	Average State Cost per Examination	\$29,482	\$29,271	99.28%

Texas Department of Insurance				
Exhibit 2: Key Performance Measures – Fiscal Year 2006				
Measure Code	Key Performance Measures	Target	Actual Performance	Annual Target Percentage
2.1.1 ex 1	Dollar Amount (in Millions) of Insurance Company Insolvencies	\$20	\$100.67	503.34%
2.1.1 ex 2	Number of Estates Placed in Receivership	4	7	175%
3.1.1 oc 2	Percent of Commercial Property Inspections that Meet Filed Rating Schedule Requirements	85%	89%	104.71%
3.1.1 oc 3	Percent of Windstorm Inspections that Result in an “Approved” Status Code	35%	32%	91.43%
3.1.1 op 1	Number of Windstorm Inspections Completed	11,500	18,923	164.55%
3.1.1 op 2	Number of Inspections of Insurer Loss Control Programs Completed	200	200	100%
3.1.1 op 3	Number of Commercial Property Oversight Inspections Completed	1,160	1,170	100.86%
3.1.1 ef 1	Average Cost per Windstorm Inspection	\$50	\$44	88%
3.1.2 op 1	Number of Referrals of Alleged Consumer & Provider Fraud to State & Federal Prosecutors	110	106	96.36%
4.1.1 oc 1	Percent of SFMO Criminal Referrals Resulting in Enforcement/Legal Action	79%	74%	93.63%
4.1.1 oc 2	Percent of Registrations, Licenses, & Permits issued, after Receipt of a Completed Application within 20 Days to Fire Alarm, Fire Extinguisher, Fire Sprinkler & Fireworks Firms, Individuals & Other Regulated Entities	99%	100%	101.01%
4.1.1 op 2	Number of Fire Investigations Completed	507	650	128.21%
4.1.1 op 5	Number of Registrations, Licenses, and Permits Issued to Fire Alarm, Fire Extinguisher, Fire Sprinkler & Fireworks Firms, Individuals & Other Regulated Entities	11,250	11,787	104.77%
6.1.1 oc 2	Average Number of Days for the Required Initial Benefit Payment to be Issued after Benefits Begin to Accrue	8.4	10.03	119.40%
6.1.1 oc 5	Percentage of Documents Received & Maintained Electronically by the Commission	74%	71.13%	96.12%

Texas Department of Insurance				
Exhibit 2: Key Performance Measures – Fiscal Year 2006				
Measure Code	Key Performance Measures	Target	Actual Performance	Annual Target Percentage
6.1.1 oc 8	Percentage of Benefit Dispute Cases Resolved by the Commission's Informal Dispute Resolution System	86%	74.59%	86.73%
6.1.1 oc 9	Percentage of Medical Benefit Dispute Cases Resolved by Initial Administrative Decision	87%	100%	114.94%
6.1.1 oc 11	Average Number of Days to Resolve Benefit Disputes	46	63	136.96%
6.1.1 oc 12	Percent of Appealed Medical Fee Disputes Resolved Prior to a Formal Hearing at SOAH	75%	98%	130.67%
6.1.1 oc 13	Statewide Incidence Rate of Injuries & Illnesses per 100 Full-time Employees	4.8	3.7	77.08%
6.1.1 op 1	Number of Quality Care Audits of Health care Providers Completed	72	61	84.72%
6.1.1 op 2	Number of Quality of Care Audits of Insurance Carriers Completed	10	10	100%
6.1.1 op 5	Number of Persons Receiving Return-to-Work Training Products & Services	20,000	29,444	147.22%
6.1.1 op 6	Number of Fraud Investigations Completed	630	550	87.30%
6.1.1 op 11	Number of Injury Records Created	170,000	98,424	57.90%
6.1.1 op 12	Number of Injury Records Created for Income/Indemnity Injuries	85,000	53,768	63.26%
6.1.1 op 14	Number of Self-Insurance Applicants or Renewals Certified	50	49	98%
6.1.1 op 16	Number of Compensation Benefit Dispute Cases Concluded in Benefit Review Conference	20,000	14,077	70.39%
6.1.1 op 17	Number of Medical Benefit Dispute Cases Resolved by Administrative Decision	13,200	14,194	107.53%
6.1.1 op 18	Number of Compensation Benefit Dispute Cases Concluded in Contested Case Hearing	7,200	6,233	86.57%
6.1.1 op 20	Number of Inspections, Consultations, & Investigations Provided to Employers	3,750	3,307	89.86%
6.1.1 ef 2	Average Number of Participants per Return-to-Work Seminar	65	88.69	136.45%

Texas Department of Insurance				
Exhibit 2: Key Performance Measures – Fiscal Year 2006				
Measure Code	Key Performance Measures	Target	Actual Performance	Annual Target Percentage
6.1.1 ef 8	Average Number of Days from the Request for Benefit Review Conference to the Conclusion of the Benefit Review Conference	80	67	83.57%
6.1.1 ef 10	Average Number of Days From the Request for a Contested Case Hearing to the Distribution of the Decision	80	78	97.50%
6.1.1 ef 12	Average Cost per Consultation/Inspection/Investigation	\$895	\$830.62	92.81%
6.1.1 ex 4	Estimated Percentage of Employers Reported Participating in the Workers' Compensation System	76%	59.88%	78.79%
6.1.1 ex 7	Number of Workers' Compensation Medical Dispute Cases Received	26,400	15,739	59.62%

III. History and Major Events

Provide a timeline of your agency's history, and key events, including:

- X the date your agency was established;**
- X the original purpose and responsibilities of your agency;**
- X major changes in responsibilities or statutory authority;**
- X changes to your policymaking body's name or composition;**
- X significant changes in state/federal legislation, mandates, or funding;**
- X significant state/federal litigation that specifically affects your agency's operations;**
- and**
- X key changes in your agency's organization (e.g., a major reorganization of the agency's divisions or program areas).**

Texas began regulating the state's fledgling insurance industry in 1874. The state's economy and population were growing, and wildcat insurance schemes were common. The 14th Texas Legislature (1874) passed a law to regulate company formation, activities, and coverage for life and health insurance. The Legislature gave the State Comptroller of Public Accounts supervisory authority over insurance – one of many duties imposed on that office by statute. There was, however, no insurance department in Texas at that time.

In the early days of statehood, nearly all insurance in Texas was written by companies organized in other states and foreign countries. According to State Comptroller records, only four of the 61 companies doing business in Texas in 1874 were domestic. These domestic companies, offering mostly fire and marine insurance, ventured into business in competition with financially stronger and more experienced out-of-state companies. As a result, most of them either went bankrupt or had to be reinsured and taken over by their out-of-state counterparts.

The legal foundation for a state insurance department was laid in 1876. The Texas Constitution adopted that year authorized the Legislature to create the office of Insurance Commissioner when it deemed it necessary. Following are key events in Texas insurance regulation:

1876 – The 15th Legislature created the Department of Insurance, Statistics, and History. In addition to insurance-related duties, the Commissioner was charged with keeping information and statistics on the state's population, wealth, and general resources. The Commissioner also served as the state historian, state librarian, and superintendent of public grounds and buildings.

1887 – The 20th Legislature expanded the Commissioner's authority to include agriculture and renamed the agency the Department of Agriculture, Insurance, Statistics, and History. The Commissioner also was made an ex-officio member of the Texas A&M College Board of Directors.

1905 – The 29th Legislature passed the first state banking act, adding the regulation and supervision of state banks to the office of the Commissioner of Agriculture, Insurance, Statistics, and History.

1907 – The 30th Legislature created the office of Commissioner of Agriculture and renamed the insurance agency the Department of Insurance and Banking.

1909 – The Legislature created the Fire Insurance Rating Board and made the Commissioner of Insurance and Banking its chair. The Commissioner also became supervisor of all building and loan associations in Texas.

1910 – The 31st Legislature replaced the Fire Insurance Rating Board with the State Insurance Board (SIB), giving SIB the authority to promulgate fire rates. SIB members were charged with selecting a member to serve as Fire Marshal. The State Fire Marshal's duties were to investigate fires to determine causes, inspect buildings to identify fire hazards, and to ensure that hazards were removed or corrected.

1913 – SIB's name was changed to the State Fire Insurance Commission and its authority was broadened. The Legislature enacted a workers' compensation law and created the Texas Employers Insurance Association (TEIA).

1923 – The 38th Legislature separated insurance and banking functions by creating the Department of Insurance and the Department of Banking, each with its own commissioner. The Legislature transferred workers' compensation rate-making authority from TEIA to the State Fire Insurance Commission.

1927 – The 40th Legislature created the Board of Insurance Commissioners, which included a Life Insurance Commissioner, a Fire Insurance Commissioner, and a Casualty Insurance Commissioner. The Legislature also gave the Casualty Insurance Commissioner the power to approve or disapprove auto insurance rates and to promulgate uniform policy forms.

1944 – In *United States v. South-Eastern Underwriters Association*, the U.S. Supreme Court held that an insurance company that conducted substantial business across state lines was engaged in interstate commerce and was therefore subject to federal antitrust regulations. The ruling led to concerns that states no longer had broad authority to regulate the insurance industry within their boundaries.

1945 – The United States Congress enacted the McCarran-Ferguson Act (U.S. Code Title 15, Chapter 20) permitting the states to continue regulating insurance in their respective states. The Act exempts insurance from some federal antitrust statutes to the extent that it is regulated by the states.

1951 – The Legislature codified the state's insurance laws as the Texas Insurance Code.

1954 – Solvency scandals rocked the Texas insurance industry. As a result, the Legislature passed at least 16 insurance-related bills between 1954 and 1958, among them measures strengthening examination laws, increasing minimum capital and surplus requirements, and giving the Board of Insurance Commissioners more control to issue certificates of authority.

1957 – The 55th Legislature established the State Board of Insurance (SBI), with three members responsible for hiring a Commissioner of Insurance to serve at its pleasure as chief administrative officer.

1974 – Congress enacted the Employment Retirement Income Security Act (ERISA) (U.S. Code Title 29, Chapter 18), which overhauled the federal pension law. Health plans later used ERISA to preempt state law regulating health insurance.

1975 – The 64th Legislature created a separate State Fire Marshal's Office (SFMO).

1986 – TDI created a toll-free consumer hotline.

1987 – 70th Legislature created the Office of Consumer Protection (OCP) within SBI.

1988 – The National County Mutual insolvency – the largest ever in Texas – led to the resignation of the Commissioner and additional changes at SBI

1989 – The 71st Legislature enacted major workers’ compensation reform law and created the Texas Workers’ Compensation Commission (TWCC).

1991 – The 72nd Legislature passed House Bill (HB) 2 and HB 62, the most comprehensive insurance reform legislation in Texas history, affecting everything from ratemaking to the compulsory auto insurance liability law. SBI was renamed the Texas Department of Insurance. OCP was made independent of TDI, renamed the Office of Public Insurance Counsel (OPIC), and given broader powers. Legislation also mandated that TDI provide a toll-free number for information and implement a process to resolve consumer complaints. SFMO became part of the new Texas Commission on Fire Protection.

1993 – The 73rd Legislature shifted most of the board’s authority to a Commissioner to be appointed in odd-numbered years to a two-year term by the Governor and confirmed by the Texas Senate. Legislation allowed the board to continue its authority over rates, policy forms, and related matters until August 31, 1994. On November 18, 1993, however, the board voted unanimously to turn over all remaining authority to the Commissioner as of December 16, 1993. Also that year, the Legislature passed HB 2055, the Small Employer Health Insurance Availability Act. The bill required carriers to offer three standard health benefit policies to small employers. TDI developed the three prototype policies and distributed them along with informational materials to the industry.

1995 – The 74th Legislature established penalties for insurance claim fraud, empowered TDI to commission peace officers, and conferred law enforcement agency status on TDI. TDI created the Fraud Unit, headed by an Associate Commissioner. Guaranteed issue provisions of the Small Employer Health Insurance Availability Act took effect, requiring insurers to accept and employer group despite the pre-existing medical conditions of one or more employees. The Legislature also changed the number of requires small employer plans from three to two, a basic plan and a catastrophic plan.

1996 – Congress enacted the Health Insurance Portability and Accountability Act (HIPAA), which addressed health care coverage, administration, and security. The Senate Interim Committee on Managed Care expressed concerns regarding the dual regulation of health maintenance organizations (HMOs) by the Texas Department of Health (TDH) and TDI. As a result, TDH delegated the HMO complaint investigation and examination functions to TDI via an interagency agreement that took effect on September 1, 1996.

1997 – The 75th Legislature enacted Senate Bill (SB) 371, which returned SFMO and its duties to TDI. The Legislature also enacted several bills designed to improve the availability of health care and assure the quality of care. SB 385 permanently transferred responsibilities for HMO complaints and examinations from TDH to TDI, codified TDI’s patient protection rules, and required OPIC to prepare reports comparing the benefits and services of HMOs operating in Texas. Legislation to implement provisions of HIPAA was also passed. The Texas Health Insurance Risk Pool was activated for people unable to obtain coverage because of pre-existing medical conditions. Also that year, Texas became the first state to enact a law authorizing enrollees of HMOs and other insurers to sue in state court for treatment decisions. In *Aetna Health Inc. v. Davila* and *Cigna Health Care v. Calad*, the Supreme Court held that ERISA preempts cases brought in state courts for damages allegedly resulting from the health plans’ coverage decisions. The court further held that Texas law is not saved from ERISA preemption as a law regulating insurance because the savings clause does not apply when there is a direct conflict between state and federal law, including remedies provisions.

1999 – The federal *Gramm-Leach-Bliley Financial Services Modernization Act* repealed the Glass-Steagall Act, which prohibited banks from offering investment, commercial banking, and insurance services. GLBA now allows commercial and investment banks to consolidate with insurance underwriting services.

2000 – Led by a dramatic increase in mold remediation claims, homeowners claims for water damage more than doubled, and the dollar amount paid on claims multiplied sevenfold.

2001 – TDI received \$1.3 million from the federal Health Resources and Services Administration (HRSA) to study the uninsured in Texas. HRSA awarded a supplemental grant to the agency in 2003 to continue the study.

2003 – In response to rising homeowners insurance premiums, SB 14 granted TDI new authority to regulate all insurance rates in Texas, eliminating the existing “Lloyds” exemption.

2005 – The 79th Legislature passed HB 7, which abolished TWCC and created the Division of Workers’ Compensation (DWC) as a division within TDI. DWC is administered by the Commissioner of Workers’ Compensation, who is appointed by the Governor. HB 7 also created a new state agency, the Office of Injured Employee Counsel (OIEC), to meet the needs of injured workers. OIEC is administratively supported by TDI. HB 7 also authorized TDI to certify workers’ compensation health care networks, a new approach to health care delivery similar to the managed care networks used in group health insurance.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

Texas Department of Insurance Exhibit 3: Policymaking Body			
Member Name	Term/Appointment Dates/ Appointed by	Qualification	City
Mike Geeslin, Commissioner of Insurance	2-year term/ February 1, 2007 to February 1, 2009/ Appointed by Governor Rick Perry	1) be a competent and experienced administrator; (2) be well informed and qualified in the field of insurance and insurance regulation; and (3) have at least five years of experience in the administration of business or government or as a practicing attorney or certified public accountant. Tex. Ins. Code §31.023.	Austin
Albert Betts, Commissioner of Workers' Compensation	2-year term/ February 1, 2007 to February 1, 2009/ Appointed by Governor Rick Perry	(1) be a competent and experienced administrator; (2) be well-informed and qualified in the field of workers' compensation; and (3) have at least five years of experience as an executive in the administration of business or government or as a practicing attorney, physician, or certified public accountant. Tex. Labor Code §402.00118.	Austin

B. Describe the primary role and responsibilities of your policymaking body.

The Commissioner of Insurance is the agency's chief executive and administrative officer appointed by the Governor as head of the Texas Department of Insurance (TDI). Texas Insurance Code, Chapter 31, charges TDI with regulating the business of insurance in Texas and administering the Workers' Compensation System of this state as provided by Title 5 of the Texas Labor Code. The Commissioner of Insurance is charged with administering and enforcing the Texas Insurance Code, other insurance laws of this state, and other laws granting jurisdiction or applicable to the agency and the Commissioner.

Texas Labor Code, Chapter 402, designates TDI as the agency to oversee the workers' compensation system in this state and establishes the Division of Workers' Compensation (DWC) as a division within TDI. DWC is part of TDI; however, unlike other divisions or areas, the Commissioner of Workers' Compensation has statutory authority to perform other activities such as: adopt rules; intervene in any judicial proceeding under Subchapter F or Subchapter G, Texas Labor Code; enter into contracts with the

federal government to perform occupational safety projects and apply for federal funds through any federal program relating to occupational safety; contract with a private or public entity to perform a duty or function of DWC; appoint advisory committees as the Commissioner of Workers' Compensation considers necessary; assess an administrative penalty for administrative violation; and enter a cease and desist order.

The Texas Labor Code, Chapter 402, provides that the Commissioner of Workers' Compensation is the division's chief executive and administrative officer. The Commissioner of Workers' Compensation has the powers and duties vested in the division. The Commissioner of Workers' Compensation shall conduct the daily operations of the division and otherwise implement division policy.

C. How is the chair selected?

The Texas Department of Insurance does not have a chair.

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

The Commissioner of Insurance is TDI's chief executive and administrative officer appointed by the Governor as head of the Texas Department of Insurance. House Bill 7, enacted by the 79th Texas Legislature, Regular Session, created the Division of Workers' Compensation as a division within TDI (Texas Labor Code, Section 402.001). The DWC is administered by the Commissioner of Workers' Compensation, who is appointed by the Governor (Texas Labor Code, Sections 402.00111 and 402.00116).

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2006? in FY 2007?

TDI does not have a policymaking body, such as a board or commission. TDI has a single commissioner as the chief executive officer and administrative head of the agency.

House Bill 7, enacted by the 79th Texas Legislature, Regular Session, created the Division of Workers' Compensation as a division within TDI (Texas Labor Code, Section 402.001). The DWC is administered by the Commissioner of Workers' Compensation, who is appointed by the governor (Texas Labor Code, Section 402.00111).

F. What type of training do members of your agency's policymaking body receive?

The Commissioner of Insurance receives training in the following areas pursuant to *Texas Insurance Code*, Section 31.028:

- (1) the legislation that created the department;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;

- (6) the results of the most recent formal audit of the department;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict of interest laws; and
- (8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

The Commissioner of Workers' Compensation receives training in the following areas pursuant to *Texas Labor Code*, Section 402.00127:

- (1) the legislation that created the division;
- (2) the programs operated by the division;
- (3) the role and functions of the division;
- (4) the rules of the commissioner of insurance relating to the division, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the division;
- (6) the results of the most recent formal audit of the division;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict-of-interest laws; and
- (8) any applicable ethics policies adopted by the division or the Texas Ethics Commission.

In addition, the Commissioner of Insurance and the Commissioner of Workers' Compensation may attend seminars on issues related to insurance and workers' compensation.

<p>G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.</p>

The Commissioner of Insurance on behalf of the Texas Department of Insurance has adopted the following manuals, which set forth the agency's policies and procedures:

- Operations Manual
- Personnel Manual
- Computer Security Manual
- Employee Health, Safety and Risk Management Manual
- Open Records Manual
- Fraud Prevention Manual.

The TDI Manuals are updated and/or revised every two years following each legislation session. Following adoption by the Commissioner of Insurance, the TDI Manuals are made available to all employees on TDI's Intranet website, on TDI's agency shared drive of TDI computers, and a hard copy is maintained by program area supervisors. In addition, hard copies of the Manuals also are available for review in Human Resources. Employees are made aware through an agency-wide email that the TDI Manuals have been adopted. The employees are required to sign an acknowledgement form indicating that they understand they must comply with the policies in the manuals and that the manuals are accessible through the agency's shared network drives.

H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?

The Commissioner of Insurance and the Commissioner of Workers' Compensation receive regular briefings and reports from staff regarding performance, which include:

- quarterly information on the agency's budget, expenditure, performance measure, and revenue status, and on human resources and recruitment data
- written biweekly or monthly reports from each agency program, including activities and status of program initiatives
- monthly status of rulemaking efforts and contested cases
- regular meeting with program areas.

The information presented to the Commissioner of Insurance is augmented by meetings 1) between program area executive management and 2) between key program personnel that meet separate from executive management. This network of communication helps to foster intra-departmental communication at both strategic and tactical levels. These efforts in turn help to enhance the information presented to the Commissioners.

I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

In general, TDI uses the following methods to collect stakeholder feedback:

- daily telephone calls, mail, complaint submissions, and personal contacts
- dissemination of information to public and stakeholders (e.g., bulletins, articles, letters)
- formal and informal surveys
- guidance from working groups, advisory boards, task forces, and committees
- informational hearings to gather information on a particular topic
- formal and informal administrative rule comments
- compliance conferences, national and regional meetings of organizations.

Input from the public has resulted in process improvements, outreach efforts, publication development, rule changes, and legislative recommendations.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.

Texas Department of Insurance Exhibit 4: Subcommittees, Advisory Committees and Boards			
Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Agents Study Proposal Vendor Committee	The commissioner of insurance may appoint an advisory council. If an advisory council is appointed, the council must be	The advisory council may provide the commissioner of insurance with information	Tex. Ins. Code §4004.002.

(short term study)	composed of nine members, four of whom must be public members.	and assistance in the conduct of the continuing education program for agents licensed under this title.	
Building Code Advisory Committee	<p>Nine voting members and the commissioner of insurance or the commissioner's designee shall serve as an ex officio, nonvoting member of the advisory committee.</p> <p>The voting members of the advisory committee consists of the following:</p> <p>(1) three members who are representatives of the building industry who reside in catastrophe areas: (A) two of whom are residential builders; and (B) one of whom is a representative of the building supply industry;</p> <p>(2) three members who are representatives of the insurance industry: (A) one of whom is a member of the board of directors; and (B) two of whom are full-time employees of an insurer authorized to engage in the business of property and casualty insurance in this state that writes insurance in a catastrophe area; and</p> <p>(3) three members who are representatives of the public who reside in a catastrophe area, one of whom is a professional engineer licensed in this state.</p> <p>The voting members are appointed by the Commissioner of Insurance.</p>	The committee is established as an advisory committee to advise and make recommendations to the Commissioner of Insurance on building specifications and maintenance in the plan of operation.	Tex. Ins. Code §§2210.301-302.
Fire Detection and Alarm Devices Advisory Council	<p>7 members</p> <p>The advisory council is appointed by the commissioner and is composed of seven individuals as follows:</p> <p>(1) three individuals employed by any registered firm in the fire protection industry who have a minimum of three years experience in the sale, installation, maintenance, or manufacturing of fire alarm or fire detection devices;</p> <p>(2) two individuals who must either be experienced in the engineering of fire prevention services or be a member of a fire protection association;</p> <p>(3) one person experienced and employed by a municipality or county as a fire prevention officer; and</p> <p>(4) one person who is employed by any registered firm and who has at least three years experience in the operation of a central fire alarm monitoring station.</p>	The council shall periodically review rules implementing this article and recommend changes in the rules to the Commissioner of Insurance.	Tex. Ins. Code art. 5.43-2, §6

<p>Fire Extinguisher Advisory Council</p>	<p>The statute does not specify the number of council members.</p> <p>The commissioner may delegate the exercise of all or part of the commissioner's functions, powers, and duties under this article, except for the issuance of licenses, certificates, and permits, to a Fire Extinguisher Advisory Council whose members shall be appointed by the commissioner. The council shall assist in the review and formulation of rules adopted under this article and shall periodically review rules implementing this article and recommend changes in the rules to the commissioner. The members of the council shall be experienced and knowledgeable in one or more of the following areas: fire services, fire extinguisher manufacturing, fire insurance inspection or underwriting, fire extinguisher servicing, or be a member of a fire protection association or industrial safety association.</p>	<p>The council shall assist in the review and formulation of rules adopted under this article and shall periodically review rules implementing this article and recommend changes in the rules to the Commissioner of Insurance.</p>	<p>Tex. Ins. Code art. 5.43-1, §9</p>
<p>Fire Protection Sprinkler System Advisory Council</p>	<p>7 members</p> <p>The advisory council shall have seven members as follows:</p> <ol style="list-style-type: none"> (1) three individuals who have been actively engaged in the management of a fire protection sprinkler system business for not less than five years preceding their appointment; (2) one representative of the engineering section of the board's property division; (3) one volunteer fire fighter; and (4) one member from each of two fire departments of incorporated cities of this state. 	<p>The advisory council, in addition to other duties delegated by the Commissioner of Insurance, shall advise the State Fire Marshal concerning the practices in the fire protection sprinkler system industry and rules necessary to implement and administer this article and make recommendations to the State Fire Marshal regarding forms and procedures for certificates of registration and licenses.</p>	<p>Tex. Ins. Code art. 5.43-3, §6</p>
<p>Health Insurance Risk Pool Board of Directors</p>	<p>The board members are appointed by the Commissioner of Insurance and consist of nine members as follows:</p> <ol style="list-style-type: none"> (1) at least two, but not more than four, members must be individuals who are affiliated with a health benefit plan issuer authorized to write health benefit plans in this state; (2) at least two of the members must be individuals or the parents of individuals who are covered by the pool or are reasonably expected to qualify for coverage by the pool; and (3) the other members of the board may be selected from individuals such as: (A) a physician licensed to practice in this state 	<p>The pool is governed by a board of directors. In addition to the other powers granted to the pool under this chapter, the pool may exercise any of the authority that a health benefit plan issuer authorized to write health benefit plans in this state may exercise under the law of this state. Operation and management of the pool is governed by a plan of operation. The plan of operation includes the articles, bylaws, and operating rules of the pool</p>	<p>Tex. Ins. Code §1505.051.</p>

	by the Texas State Board of Medical Examiners; (B) a hospital administrator; (C) an advanced nurse practitioner; or (D) a representative of the public who is not employed by or affiliated with an insurance company or insurance plan, group hospital service corporation, or health maintenance organization.	that are adopted by the commissioner of insurance.	
Health Maintenance Organization Solvency Surveillance Committee	<p>The committee is composed of nine members appointed by the commissioner of insurance.</p> <p>Each member must be a health maintenance organization that holds a certificate of authority under this chapter or a public representative. If a member is a health maintenance organization or its holding company system, the commissioner shall appoint an officer or employee of the member to represent the member on the committee. No two individuals on the committee may be employees or officers of the same health maintenance organization or holding company system. Five of the members shall represent health maintenance organizations or their holding company systems. Of the health maintenance organization members, one shall represent a limited health care service plan and one shall represent a single health care service plan. The commissioner shall select the remaining health maintenance organization members after considering appropriate factors such as the varying categories of premium income and geographic location. A public representative may not: (1) be an officer, director, or employee of a health maintenance organization, a health maintenance organization agent, or any other business entity regulated by the commissioner; (2) be a person required to register under Chapter 305, Government Code; or (3) be related to a person described by Subdivision (1) or (2) within the second degree by affinity or consanguinity. Qualifications for membership, terms of office, and reimbursement of expenses shall be governed by the approved plan of operation required under Section 843.437.</p>	The Health Maintenance Organization Solvency Surveillance Committee exists under the direction of the commissioner. The committee shall perform its functions under a plan of operation. The committee shall assist and advise the commissioner regarding: the detection and prevention of insolvency problems in health maintenance organizations; and any health maintenance organization placed in rehabilitation, liquidation, supervision, or conservation.	Tex. Ins. Code §§843.435-843.436.
Life, Accident, Health and Hospital Service Insurance	<p>Nine members appointed by the commissioner of insurance.</p> <p>The commissioner of insurance shall</p>	The Life, Accident, Health, and Hospital Service Insurance Guaranty Association is a nonprofit	Tex. Ins. Code §§463.053-463-058.

<p>Guaranty Association Board of Directors</p>	<p>appoint three board members from officers or employees of the 50 member insurers having the largest total direct premium income according to the most recent financial statement on file on the date of appointment. To give fair representation to member insurers, the commissioner shall appoint two board members from member insurers other than insurers described by subsection (b), considering the varying categories of premium income and geographical location. The commissioner shall appoint four board members who are public representatives.</p>	<p>legal entity existing to pay benefits and continue coverage.</p>	
<p>Property and Casualty Insurance Guaranty Association Board of Directors</p>	<p>The board of directors consists of nine individuals. Member insurers shall select five insurance industry board members, subject to the approval of the commissioner of insurance. Four board members must be public representatives appointed by the commissioner of insurance.</p>	<p>The purposes is to (1) provide a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment; (2) avoid financial loss to claimants or policyholders because of an insurer's impairment; (3) assist in the detection and prevention of insurer insolvencies; and (4) provide an association to assess the cost of that protection among insurers.</p>	<p>Tex. Ins. Code §§462.051-462.055.</p>
<p>Public Insurance Adjusters Examination Advisory Committee</p>	<p>The advisory board is composed of nine members appointed by the commissioner of insurance as follows: (1) the presiding officer of the unauthorized practice of law committee of the State Bar of Texas; (2) three members who represent the public; (3) two members with knowledge and experience in the profession of insurance adjusting; (4) one member from a domestic insurer authorized to engage in business in this state; (5) one member from a foreign insurer authorized to engage in business in this state; and (6) one member who is an independent adjuster.</p>	<p>An advisory board shall make recommendations to the commissioner of insurance regarding: (1) the scope, time, and conduct of written examinations under Subchapter B; (2) the times and locations in this state where the examinations are held; and (3) any other matter the commissioner of insurance submits to the advisory board for a recommendation.</p>	<p>Tex. Ins. Code §4101.006.</p>
<p>Technical Advisory Committee on Claims Processing</p>	<p>The commissioner of insurance shall appoint a technical advisory committee on processing by insurers and health maintenance organizations of claims by physicians and other health care providers for medical care and health care services</p>	<p>The technical advisory committee shall advise the commissioner of insurance on technical aspects of coding of health care services and claims</p>	<p>Tex. Ins. Code §§1212.001-1212.003.</p>

	provided to patients.	development, submission, processing, adjudication, and payment, as well as the impact on those processes of contractual requirements and relationships, including relationships among employers, health benefit plans, insurers, health maintenance organizations, preferred provider organizations, electronic clearinghouses, physicians and other health care providers, third-party administrators, independent physician associations, and medical groups. The committee shall also advise the commissioner of insurance with respect to the implementation of the standardized coding and bundling edits and logic. The commissioner of insurance shall consult the technical advisory committee before adopting any rule related to the subjects described by subsection (a).	
Texas Health Coverage Awareness and Education Program Task Force	<p>The task force members are appointed by the commissioner of insurance. The task force is composed of:</p> <p>(1) one representative from each of the following groups or entities: (A) health benefit coverage consumers; (B) small employers; (C) employers generally; (D) insurance agents; (E) the office of public insurance counsel; (F) the Texas Health Insurance Risk Pool; (G) physicians; (H) advanced practice nurses; (I) hospital trade associations; and (J) medical units of institutions of higher education</p> <p>(2) a representative of the Health and Human Services Commission responsible for programs under Medicaid and the children's health insurance program; and</p> <p>(3) one or more representatives of health benefit plan issuers.</p>	The task force may make recommendations regarding the health coverage public awareness and education program. The department shall consult the task force regarding the content for the public service announcements, Internet website, and educational materials.	Tex. Ins. Code §§524.001-524.005.
Texas Health Reinsurance System Board of Directors	The board of directors of the system is composed of: (1) nine members appointed by the commissioner of insurance; and (2) the commissioner of insurance or the	The system has the general powers and authority granted under state law to an insurer or a health	Tex. Ins. Code §1501.303.

	<p>commissioner's designee, who serves as an ex officio member.</p> <p>Five of the appointed members must be representatives of reinsured health benefit plan issuers selected from individuals nominated by small employer health benefit plan issuers in this state according to procedures developed by the commissioner of insurance. Four of the appointed members must represent the public.</p>	<p>maintenance organization authorized to engage in business, except that the system may not directly issue a health benefit plan.</p>	
<p>Texas Self-Insurance Group Guaranty Fund Board of Directors</p>	<p>The board is composed of the following voting members:</p> <p>(1) three members elected as provided by Subsection (c), each of whom represents a different group certified under this chapter;</p> <p>(2) one member to represent wage earners designated by the commission;</p> <p>(3) one member designated by the commissioner of insurance; and</p> <p>(4) the public counsel of the office of public insurance counsel. The commissioner of insurance shall appoint the initial board members representing groups.</p>	<p>The Texas self-insurance group guaranty fund is a nonprofit association established to provide for the payment of workers' compensation insurance benefits for injured employees covered by a group declared insolvent under Section 407A.355.</p>	<p>Tex. Labor Code §§407A.452-407A.453.</p>
<p>Texas Surplus Lines Stamping Office</p>	<p>The board of directors consists of nine members appointed by the commissioner.</p> <p>Four members must represent the public and have a minimum of three years of experience in purchasing commercial insurance.</p>	<p>The stamping office shall conduct the following activities as provided in the plan of operation:</p> <p>(1) receive, record, and review each surplus lines insurance contract that a surplus lines agent is required to file with the office; (2) provide to the commissioner of insurance an evaluation of the eligibility of each surplus lines insurance contract and surplus lines insurer; (3) prepare monthly reports for the commissioner of insurance relating to surplus lines insurance obtained during the preceding month in a form prescribed by the commissioner; (4) prepare reports for the commissioner relating to surplus lines business; (5) collect from each surplus lines agent a stamping fee for the costs of operations to be paid by the insured and determined by the department in an amount not to exceed three-fourths</p>	<p>Tex. Ins. Code §981.152.</p>

		of one percent of gross premium resulting from surplus lines insurance contracts; (6) employ persons; (7) borrow money; (8) enter into contracts; (9) perform any other acts to facilitate or encourage compliance with this chapter and rules adopted under this chapter; and (10) provide any other service incidental or related to an office purpose.	
Title Insurance Guaranty Association Board of Directors	<p>The board of directors consists of nine individuals appointed by the commissioner of insurance.</p> <p>Three board members must be officers or employees of title insurance companies. Two board members must be officers or employees of agents. Four board members must be public representatives.</p>	<p>The association shall perform its functions under a plan of operation. The plan of operation must, in addition to the other requirements of this chapter: (1) establish: (A) procedures for handling the assets of the association; (B) the amount and method of reimbursing board members; (C) regular places and times for board meetings; (D) procedures for maintaining records of all financial transactions of the association, its agents, and the board; and (E) procedures for determining the amount of guaranty fees, for collecting those fees, and for assessments.</p>	<p>Tex. Ins. Code §§2602.051-2602.057.</p>

Texas Department of Insurance Statutorily Created Entities Board/Governing Body Members Appointed by the Commissioner of Insurance			
Name of Association Advisory Body	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Fair Access to Insurance Requirements (FAIR) Plan Association Governing Committee	<p>11 members</p> <p>The governing committee is composed as follows: five members who represent the interests of insurers; four public members; and two members who are general property and casualty agents. The commissioner of insurance or designee by the commissioner serves as an ex officio member. Each member of the governing committee who represents the interests of insurers must be a</p>	<p>The FAIR Plan Association is a nonprofit association that is administered by a governing committee of the association pursuant to a plan of operation. The Texas FAIR Plan Association provides residential property insurance to qualified consumers who are having</p>	<p>Tex. Ins. Code §§2211.052-2211.054.</p>

	<p>full-time employee of an insurer.</p> <p>The members of the governing committee are appointed by the Commissioner of Insurance.</p>	<p>difficulty obtaining coverage from licensed insurance companies. Subject to the approval of the Commissioner of Insurance, the governing committee must develop the plan of operation and propose any amendments to the plan of operation, which must be adopted by the commissioner by rule. The commissioner is charged with the authority to supervise the association.</p>	
<p>Texas Automobile Insurance Plan Association Governing Committee</p>	<p>The governing committee is composed of 15 members selected as follows:</p> <p>(1) eight members who represent the interests of insurers, elected by the association members according to a method the members determine;</p> <p>(2) five public members, nominated by the office of public insurance counsel and selected by the commissioner of insurance; and</p> <p>(3) two members who are general property and casualty agents, as required by the plan of operation.</p>	<p>The purpose of the Association is to make automobile bodily injury and property damage liability insurance required by the Texas Motor Vehicle Safety Responsibility Act available to eligible applicants, subject to the rules of the Association. The association is administered by a governing committee under a plan of operation. The plan of operation must: (1) provide for the efficient, economical, fair, and nondiscriminatory administration of the association; and (2) provide a means by which insurance may be provided in accordance with Section 2151.102(a). Subject to the commissioner of insurance's approval, the governing committee may amend the plan of operation.</p>	<p>Tex. Ins. Code §§2151.051-2151.055.</p>
<p>Texas Medical Liability Insurance Underwriting Association Board of Directors</p>	<p>The association is governed by a board of directors composed of the following nine members:</p> <p>(1) five representatives of insurers that are required to be association members, elected by association members;</p> <p>(2) one physician, appointed by the Texas Medical Association or a successor to that association;</p> <p>(3) one representative of hospitals, appointed by the Texas Hospital Association or a successor to that association; and</p>	<p>The association provides medical liability insurance on a self-supporting basis.</p>	<p>Tex. Ins. Code §2203.052.</p>

	(4) two public members, appointed by the commissioner of insurance.		
Texas Windstorm Insurance Association Board of Directors	<p>The board of directors is composed of the following nine members:</p> <p>(1) five representatives of different insurers who are members of the association, elected by the members as provided by the plan of operation;</p> <p>(2) two public representatives who are nominated by the office of public insurance counsel and who, as of the date of the appointment: (A) reside in a catastrophe area; and (B) are policyholders of the association; and</p> <p>(3) two general property and casualty agents: (A) who have demonstrated experience in the association; and (B) whose principal offices, as of the date of the appointment, are located in a catastrophe area.</p>	<p>The plan of operation must:</p> <p>(1) provide for the efficient, economical, fair, and nondiscriminatory administration of the association; and</p> <p>(2) include: (A) a plan for the equitable assessment of the members of the association to defray losses and expenses; (B) underwriting standards; (C) procedures for accepting and ceding reinsurance; (D) procedures for determining the amount of insurance to be provided to specific risks; (E) time limits and procedures for processing applications for insurance; and (F) other provisions as considered necessary by the department to implement the purposes of this chapter.</p> <p>The plan of operation may provide for liability limits for an insured structure and for the corporeal movable property located in the structure.</p>	<p>Tex. Ins. Code §§2210.101-2210.105.</p>

V. Funding

A. Provide a brief description of your agency's funding.

The Texas Department of Insurance (TDI) is primarily funded from two accounts within the General Revenue fund. The agency's operations are primarily funded by TDI's operating account (Account 36). The Subsequent Injury Fund (appropriated fund 5101) is used to pay lifetime benefits to workers suffering subsequent injuries and to reimburse insurance carrier claims.

Account 36 is funded by collections from two primary sources:

- The Comptroller of Public Accounts collects insurance company maintenance taxes and fees and deposits the revenues first into General Revenue Fund 001 and then transfers the funds into Account 36.
- TDI collects user fees, such as insurance company filing fees, licensing fees, and examination fees, and deposits them directly into Account 36. Additionally, certified self-insurer taxes and federal funds are revenue sources for Account 36.

Maintenance taxes are a primary source of funding for Account 36. The maintenance taxes also provide supplemental funding to other agencies as dictated by appropriations by the Legislature. The Texas Insurance Code requires the Commissioner of Insurance to set maintenance tax rates each year for nine lines of insurance in order to generate sufficient revenues to fund the difference between projected revenues from non-maintenance tax sources and projected Account 36 expenditures. This mechanism ensures that enough funding is generated to cover the appropriations passed by the Legislature, and it is designed to be self correcting, as discussed below.

At the end of each fiscal year, Account 36 contains a substantial fund balance to cover continuing expenditures until maintenance taxes are collected and credited by the Comptroller in April or May, when the Account is usually at its lowest balance. In years when the maintenance taxes produce more revenue than is spent from the Account, by statute the unspent funds remain in the Account and the maintenance tax rates are set to recover a lower level of revenue the following year. In other words, the statute governing the operation of Account 36 contemplates that revenue collection be a self-correcting mechanism, collecting only the revenue needed for appropriations; any savings from current appropriations simply reduce the amount of maintenance taxes assessed against the insurance companies in the following year and do not result in a savings to General Revenue.

The source of revenue for the Subsequent Injury Fund is money from workers' compensation insurance carriers on the death of covered employees when no person entitled to compensation survives such employees.

B. List all riders that significantly impact your agency's budget.

Riders that significantly impact TDI are presented below. The description of each rider is the exact language included in the General Appropriations Act. For additional information, please see the General Appropriations Act for the 2006-2007 biennium.

Capital Budget. None of the funds appropriated above may be expended for capital budget items except as listed below. The amounts shown below shall be expended only for the purposes shown and are not available for expenditure for other purposes. Amounts appropriated above and identified in this provision as appropriations either for “Lease Payments to the Master Lease Purchase Program” or for items with a “(MLPP)” notation shall be expended only for the purpose of making lease-purchase payments to the Texas Public Finance Authority pursuant to the provisions of Government Code, Section 1232.103. Upon approval from the Legislative Budget Board, capital budgeted funds listed below under “Acquisition of Information Resource Technologies” may be used to lease information resources hardware and/or software, if determined by agency management to be in the best interest of the State of Texas.

Liquidation Oversight and Title Examiner Full-Time Equivalent Positions. In addition to the full-time equivalent positions authorized above, an additional 32.5 full-time equivalent positions are authorized for each year of the 2006-07 biennium to support liquidation oversight and title examiner activities. These positions are excluded from the FTE cap.

Appropriations Limited to Revenue Collections. The application of special provisions limiting appropriations to revenue collections elsewhere in this Article shall be consistent with relevant statutory provisions governing the agency’s assessment of tax rates and fees. As provided by the Texas Insurance Code, the Commissioner shall take into account unexpended funds in the preceding year when adjusting rates of assessment necessary to pay all expenses of regulating insurance and conducting the operations of the State Fire Marshal during the succeeding year.

Travel Cap. Out of the funds appropriated above, expenditures for out-of-state travel by the Texas Department of Insurance are limited to \$600,551 in fiscal year 2006 and \$600,551 in fiscal year 2007. Of these amounts, \$483,488 in fiscal year 2006 and \$483,488 in fiscal year 2007 shall be utilized solely for out-of-state travel for the purpose of financial examinations.

DWC-Related Riders:

Appropriation of Certain Fees. Revenues collected by the commission as reproduction fees, third party reimbursements, seminar fees, publication fees, and fees collected for audits, inspections, and consultations are estimated to be \$1,264,106 for fiscal year 2006 and \$1,271,270 for fiscal year 2007 are included in the above method of financing as Appropriated Receipts.

Appropriations Limited to Revenue Collections. It is the intent of the Legislature that revenues as authorized and generated by the commission cover, at a minimum, the cost of general revenue appropriations made above, as well as covering “other direct and indirect costs” associated with such general revenue appropriations. “Other direct and indirect costs” associated with such general revenue appropriations are estimated to be \$12,360,015 for fiscal year 2006 and \$12,724,257 for fiscal year 2007. In the event that actual and/or projected revenue collections are insufficient to offset the costs identified by this provision, the Legislative Budget Board may direct that the Comptroller of Public Accounts reduce the appropriation authority provided above to be within the amount of revenue expected to be available. The application of this provision shall be consistent with applicable statutory provisions governing the commission’s assessment of tax rates and fees. When the commission sets the rate of assessment for the maintenance tax, it shall take into account a surplus or deficit produced by the tax in the preceding year and other factors as provided by Section 403.003, Labor Code, Rate of Assessment.

Appropriation of Unexpended Balances. Any unexpended balances as of August 31, 2006, not to exceed five percent for any item of appropriation, are hereby appropriated to the Division of Workers’ Compensation for the same purposes for the fiscal year beginning September 1, 2006.

Business Process Improvement. Of the amounts appropriated above to the Division of Workers' Compensation, an amount not to exceed \$3,560,000 for the biennium shall be used for the Business Process Improvement Project expenditures. As an exception to Rider 16: Appropriation of Unexpended Balances, the unexpended balances for the Business Process Improvement Project for the fiscal year ending August 31, 2006, not to exceed \$2,808,500, are hereby appropriated to the agency for the same purposes for the fiscal year ending August 31, 2007. If the amounts for the Business Process Improvement in Rider 2, Capital Budget are reduced by other provisions in this Act, this rider shall not take effect.

Subsequent Injury Fund. The amounts appropriated above in the Division of Workers' Compensation include an estimated \$3,670,140 in fiscal year 2006 and \$3,670,140 in fiscal year 2007 out of the GR Dedicated – Subsequent Injury Account No. 5101 for payment of liabilities pursuant to Labor Code, Chapter 403. In the event that actual liabilities exceed the estimated amounts, the Division of Workers' Compensation shall furnish information supporting the estimated additional liabilities to the Comptroller of Public Accounts. If the Comptroller finds that there are sufficient balances in the GR Dedicated – Subsequent Injury Account No. 5101 to support the payment of projected liabilities, a finding of fact to that effect shall be issued and a contingent appropriation shall be made available for the intended purposes.

Out-of-State Travel Cap Exemption. Out of the funds appropriated above, expenditures for out-of-state travel by the Division of Workers' Compensation are limited to \$51,146 in fiscal year 2006 and \$51,146 in fiscal year 2007. Notwithstanding any other provisions in this act, travel associated with federal programs and paid out of federal funds is exempt from this limitation.

C. Show your agency's expenditures by strategy.

Texas Department of Insurance			
Exhibit 5: Expenditures by Strategy Fiscal Year 2006			
Goal/Strategy		Total Amount	Contract Expenditures Included in Total Amount
111	Consumer Education And Market Analysis	\$3,641,305.17	\$377,519.79
112	Rates, Forms And Licenses	8,749,300.98	321,437.72
113	Underserved Coverage	158,340.50	6,292.76
121	Resolve Complaints	2,618,111.49	48,328.47
122	Investigations and Enforcement	3,267,996.96	167,939.61
123	Insurer Fraud	1,119,112.74	20,305.88
124	TexasOnline-Subscription Fees	365,895.00	0
211	Insurers' Financial Condition	10,954,566.59	337,005.82
311	Loss Control Programs	2,700,211.98	31,463.85
312	Provider and Consumer Fraud-	1,152,401.82	20,305.86
411	Fire Protection	3,639,940.45	62,457.94
511	Central Administration	6,761,533.87	329,653.18
512	Information Resources	7,676,983.52	2,116,478.20
513	Other Support Services	2,514,391.40	222,889.97
514	DWC Business Process Improvement	3,751,906.72	2,439,220.83
515	DWC Regional Administration	616,425.92	5,602.82

611	DWC Medical Cost Containment	1,939,104.31	110,455.20
621	DWC Investigation Compliance	2,381,729.34	6,998.89
631	DWC Develop Implementation Processes	6,186,206.22	155,556.84
641	DWC Regulate Self-Insurance	612,242.73	0
711	DWC Inform Benefit Dispute Resolution	7,859,915.60	84,172.74
712	DWC Inform Medical Dispute Resolution	1,240,212.26	9,441.59
713	DWC Formal Benefit Dispute Resolution	4,797,930.16	28,670.08
714	DWC Formal Medical Dispute Resolution	668,164.18	304,859.31
811	DWC Health and Safety Services	3,961,882.54	42,382.53
911	DWC Subsequent Injury Fund Disbursement	2,691,131.47	0
GRAND TOTAL:		\$92,026,943.92	\$7,249,439.88

D. Show your agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2006.

Texas Department of Insurance		
Exhibit 6: Objects of Expense - Fiscal Year 2006		
Object-of-Expense		Amount
1001	Salaries & Wages	\$67,969,231.64
1002	Other Personnel Costs	3,053,437.90
2001	Professional Fees/Services	4,497,785.33
2002	Fuels and Lubricants	124,228.37
2003	Consumable Supplies	537,811.03
2004	Utilities	867,633.91
2005	Travel In-State	1,543,456.95
2006	Rent - Building	3,053,676.01
2007	Rent - Machine and Other	354,016.29
2009	Other Operating Expense	9,211,260.25
2105	Travel Out-of-State	491,008.01
5000	Capital Expenditures	323,398.23
	Total	\$92,026,943.92

A table presenting the agency objects of expense by program for each expense category is attached to TDI's Self-Evaluation Report.

E. Show your agency’s sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.

Texas Department of Insurance Exhibit 7: Sources of Revenue Fiscal Year 2006 (Actual)	
Source	Amount
General Revenue	
0001 General Revenue	\$5,790.00
0001 DWC Earned Federal Funds	224,406.00
8042 Maintenance Taxes	31,614,560.27
Subtotal, General Revenue	31,844,756.27
General Revenue Dedicated Funds	
0036 DWC Regular Operating Fund	\$37,847,434.47
0036 Insurance Operating Fund	16,019,250.59
5101 Subsequent Injury Fund	2,626,768.67
0036 GR ACCT – ROC on Workers’ Compensation	418,008.75
Subtotal, General Revenue Dedicated	56,911,462.48
Federal Funds	
0036 DWC Federal Funds	\$2,027,826.06
Other Funds	
0036 DWC Appropriated Receipts	\$1,085,357.02
0036 DWC TMIC Grant	157,542.40
Subtotal, Other Funds	1,242,899.42
TOTAL	\$92,026,944.23

F. If you receive funds from multiple federal programs, show the types of federal funding sources.

Texas Department of Insurance Exhibit 8: Federal Funds - Fiscal Year 2006 (Actual)				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
OSHA Data (4031)	0/100	0	\$75,125.15	\$75,125.15
BLS-ROSH (4041)	50/50	126,974.92	126,974.92	253,949.84
BLS-CFOI (4051)	50/50	54,735.24	54,735.27	109,470.51
OSHCN (4061)	10/90	192,317.81	1,770,990.72	1,963,308.53
TOTAL		\$374,027.95	\$2,027,826.06	\$2,401,854.01

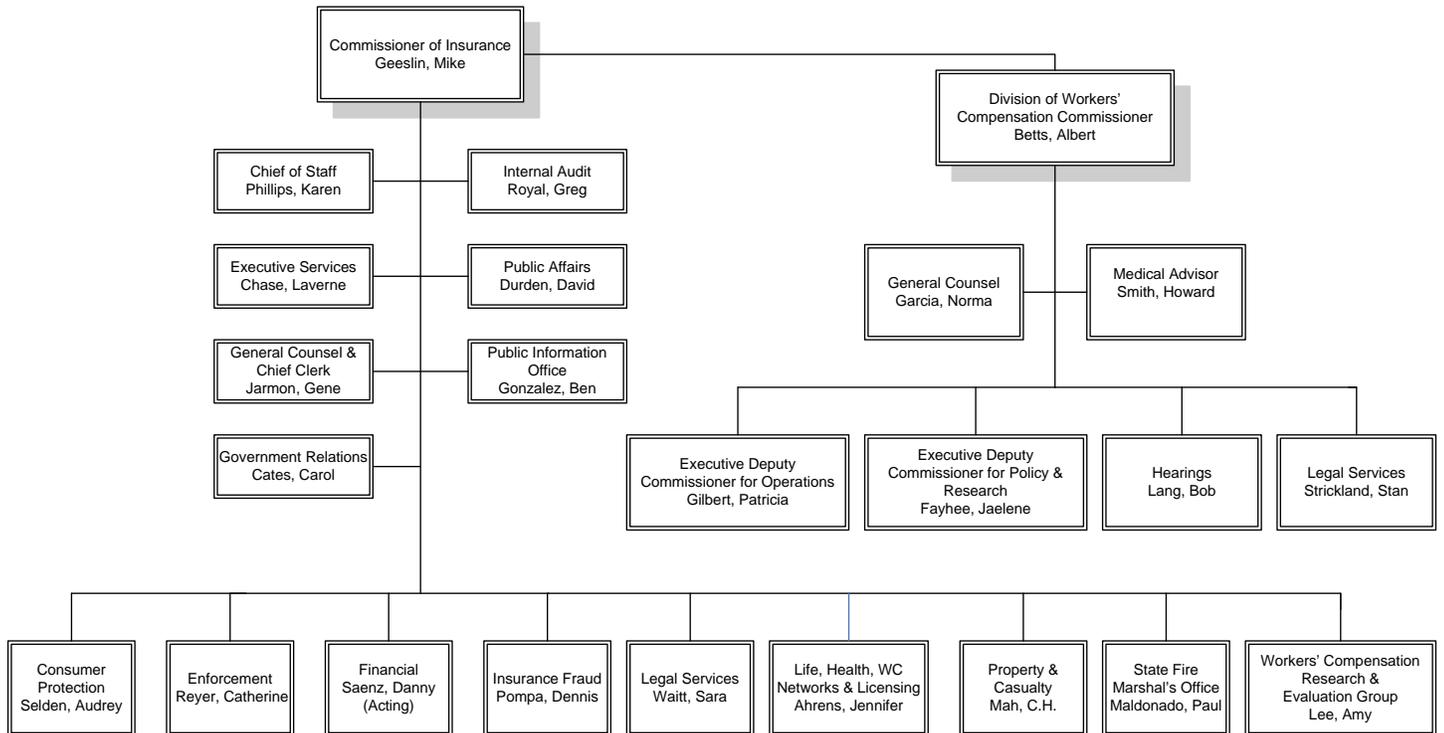
G. If applicable, provide detailed information on fees collected by your agency.

The fees collected by the Texas Department of Insurance are listed in an attachment to TDI’s Self-Evaluation Report.

VI. Organization

A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division.

**Texas Department of Insurance
Agency Organizational Chart
July 2007**



The July 31, 2007, organizational chart is attached to the TDI Self-Evaluation Report. The attachment includes agency, program, and division-level organizational charts. Additionally, the August 31, 2006, organizational chart is available for review.

B. If applicable, fill in the chart below listing field or regional offices.

Texas Department of Insurance Exhibit 10: FTEs by Location - Fiscal Year 2006			
Headquarters, Region, or Field Office	Location	Budgeted FTEs FY 2006	Actual FTEs, as of August 31, 2006
TDI – Hobby Headquarters	Austin	791.3	759.30
DWC – Metro Headquarters	Austin	640.43	525.80
TDI Field Office – Central Texas	San Antonio	16	16
TDI Field Office – North Texas	Dallas	34	27
TDI Field Office – South Texas	Houston	24	21
Angleton Field Office (Windstorm)	Angleton	7	6
Beaumont Field Office (Windstorm)	Beaumont	3	3
Corpus Christi Office (Windstorm)	Corpus Christi	6	6
La Marque Field Office (Windstorm)	La Marque	7	5
Corpus Christi (Fire Marshal)	Corpus Christi	5	5
State Fire Marshal Field Staff	Various local communities	12	12
DWC – Field Offices	See note*	260.37	234
TOTAL		1,806.1	1,627.1

*Note: As of August 31, 2006, DWC had field offices in the following cities: Abilene, Amarillo, Austin, Beaumont, Bryan, Corpus Christi, Dallas, Denton, El Paso, Fort Worth, Houston (East and West), Laredo, Lubbock, Lufkin, Midland, Missouri City, San Angelo, San Antonio, Tyler, Victoria, Waco, Weslaco, and Wichita Falls.

C. What are your agency’s FTE caps for fiscal years 2006 - 2009?

Texas Department of Insurance FTE caps, FY 2006 - 2009				
	2006	2007	2008	2009
TDI (not including DWC) (Art. VIII-25)	923.8	923.8	903.1	903.1
Mandated Reductions (Art. IX, Sec 6.14 (a)(2))	(18.5)	(18.5)		
Long-Term Care (Art. VIII-31, Rider 16)			3.0	3.0
Cross-Border Health (Art. VIII-32, Rider 17 - vetoed)			2.0	2.0
3 Share Premium Assistance (Art VIII-32, Rider 18)			1.0	1.0
Residential Mortgage Fraud (Art IX-76, Sec. 19.10)			3.0	3.0
HMO Data Collection (Art. IX-84, Sec. 19.44)			1.0	1.0
Cigarette Regulation (Art. IX-101, Sec.19.94)			2.0	9.0
Data Center Consolidation (Art IX. Sec 18.02)			(6.9)	(6.9)
Subtotal	905.3	905.3	908.2	915.2
DWC (Art. VIII-25)	1012.0	1012.0	801.3	801.3
OIEC (Art. IX, Sec 14.02 (a))	(91.0)	(91.0)		
Mandated Reductions (Art. IX, Sec 6.14 (a)(2))	(20.2)	(20.2)		
Data Center Consolidation (Art. IX, Sec 18.02)			(16.0)	(16.0)
Subtotal	900.8	900.8	785.3	785.3
TOTAL TDI	1806.1	1806.1	1693.5	1700.5

D. How many temporary or contract employees did your agency have as of August 31, 2006?

TDI had five contracted and four temporary employees as of August 31, 2006.

E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.

Texas Department of Insurance Exhibit 11: List of Program FTEs and Expenditures C Fiscal Year 2006		
Program	FTEs as of August 31, 2006	Actual Expenditures
Administrative Operations	196	\$21,279,161.98
Commissioner's Administration	40.6	2,599,161.82
Consumer Protection	74.1	3,668,014.13
Enforcement	50	2,347,560.98
Financial	181.85	10,565,051.88
Fraud	37	1,921,205.06
Legal Services	39	2,269,064.45
Life, Health & Licensing	139	6,007,615.12
Property & Casualty	134.75	6,664,799.44
State Fire Marshal	68	3,406,353.18
Workers' Compensation Research Evaluation Group	3	418,008.19
DWC Commissioner's Administration	12.8	950,200.71
DWC Dispute Resolution	129	6,728,082.56
DWC Field Services	353	11,784,904.38
DWC Legal & Compliance/Enforcement	45	2,410,655.72
DWC Policy & Research	45	2,384,417.22
DWC Workplace & Medical Services	79	3,995,918.43
DWC Subsequent Injury Fund Disbursements	N/A	2,626,768.67
TOTAL	1,627.1	\$92,026,943.92

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Administrative Operations
Location/Division	William P. Hobby Building, Tower I, 2nd, 8th and 13th Floors
Contact Name	Karen A. Phillips
Actual Expenditures, FY 2006	\$19,488,755.38
Number of FTEs as of August 31, 2006	196

B. What is the objective of this program or function? Describe the major activities performed under this program.

Administrative Operations has three primary objectives.

- Provide TDI and the Office of Injured Employee Council (OIEC) with operational support in the areas of budget, accounting, planning, information technology, human resources, purchasing, facilities management, records retention, and copy services.
- Ensure that TDI complies with oversight regulations of other state agencies.
- Help TDI obtain adequate funding and manage its resources effectively to accomplish its mission and goals.

Administrative Operations consists of five activities: Financial Services, Purchasing and Contract Administration, Information Technology Services, Human Resources, and Staff Services. Each activity is organized as a separate division within the Administrative Operations Program, and an explanation of each division’s responsibilities is described below. The Administrative Operations organizational chart is provided as an attachment to the Self-Evaluation Report.

Financial Services

As part of the Administrative Operations Program, Financial Services maintains the agency's financial records, prepares supporting documents required for a proper audit trail, establishes internal financial controls to detect errors and irregularities, prepares the agency's annual financial report and develops and recommends rates for maintenance taxes and assessments. The division manages agency-wide budget and planning functions, including the Legislative Appropriations Request (LAR), the strategic plan, the annual operating budget, performance measure reports, and the business planning and redesign function. In addition, the division monitors the agency’s compliance with certain Article IX provisions of the General Appropriations Act (GAA). The division also provides administrative support to the OIEC. Financial Services performs all financial management functions for the agency and comprises four functions: Accounting, Budget, Strategic Planning, and Business Planning and Redesign.

- Accounting maintains and monitors the agency’s financial records, including collecting revenue, processing expenditures, preparing the agency’s annual financial report, and calculating maintenance tax rates.
- Budget develops and monitors the annual operating budget and legislative appropriations request, responds to legislative inquiries, prepares fiscal notes during legislative sessions, and reviews the agency's compliance with certain Article IX provisions of the General Appropriations Act.

- Strategic Planning develops the agency's Strategic Plan, coordinates, monitors and reports the agency's performance against targets in the Strategic Plan.
- Business Planning and Redesign (BPR) coordinates agency-wide business planning, disaster planning, and projects such as the agency's Customer Satisfaction Survey.

Purchasing and Contract Administration

Purchasing and Contract Administration processes all agency purchasing and contracting transactions, coordinates the agency's Historically Underutilized Business (HUB) program and is responsible for the administration of all agency contracts. The division balances the needs of the program areas and compliance with state purchasing regulations while conducting business with agency staff and vendors fairly and economically to achieve the best value and the most effective results for the agency. The purchasers are the main contact for procuring goods and services and for contracting with vendors. The majority of procurements are processed centrally in the Purchasing division. Purchasing is responsible for:

- The timely processing of purchase orders, which includes:
 - ensuring the adequate review of purchase requests
 - obtaining appropriate approvals
 - overseeing the solicitation process for specialized goods, professional and other services, and
 - adhering to oversight processing and reporting requirements.
- The Historically Underutilized Business (HUB) program, which ensures the agency is making a good faith effort to utilize minority and women owned businesses across Texas.
- The proper administration and monitoring of contracts, including the monitoring of contractors, to ensure they are providing services in accordance with the contract terms and conditions.

Information Technology Services

Information Technology Services (ITS) provides automation and computer support for all TDI agency programs as well as for the Office of Injured Employee Counsel (OIEC). ITS consists of four sections: Innovative Development, Customer Support, Project Management and Division Support, and Desktop and Telecommunication.

- Innovative Development performs application development and quality assurance.
- The Customer Support Center includes three teams: First Line Support, Network Advanced Support, and Hobby Business Analysts. First line support responds to customer requests at the agency's technology Help Desk. The group ensures the agency's infrastructure and networked computer systems, including Local Area Networks (LAN) and Wide Area Networks (WAN), are fully operational. Business Analysts provide direct customer support to Hobby program areas.
- Project Management and Division Support ensures that current developments and trends in technology are addressed, prioritized, and managed. This section manages all technology projects, provides systems analysis, plans and monitors the capital and operational budgets, prepares division reports, administers software documentation, and administers a technical library that houses the agency's authorized software licenses and documentation.
- Desktop and Telecommunication is composed of the Desktop Support, Telecommunications, and Metro Business Analysts sections. These sections provide desk side software support, office automation support, and support of telephones and telephone systems. Business Analysts provide direct customer support to Metro program areas.

Human Resources

Human Resources performs three main functions: Administration, Personnel and Benefits, and Professional Development.

- Administration monitors the agency's compliance with state and federal employment laws, reviews and implements legislation, provides workforce reports to agency management and appropriate state agencies, and assists program areas with staffing and workforce planning.
- Personnel and Benefits administers the agency's hiring process, maintains payroll leave records and employment information, processes personnel actions, including merit raises, promotions, new hires, employee transfers, assists program management with disciplinary issues, assists employees with insurance, disability and retirement benefits, and conducts and analyzes employee exit interviews.
- Professional Development designs and implements programs and services to maintain high employee satisfaction and provides professional development courses on topics related to management training, technical insurance training, new employee orientation and workplace conduct.

Human Resources also develops and/or supports creative, non-monetary incentives for the agency, such as offering flex and compressed work weeks, promoting the availability of an employee assistance program, an internal employee ombudsman program, delivery of a wellness program, a forum for expressing and addressing concerns or ideas through the Reality Check Group, granting administrative leave for outstanding performance and recognizing employee longevity through service awards.

Staff Services

Staff Services provides and coordinates facilities-related and operational support and is comprised of six functions: Facilities Management, Mail Services, Copy Center Services, Records Retention, Warehouse Services and Safety and Risk Management.

- Facilities Management coordinates all leases, space planning and fixed asset inventory at the agency's headquarters and field office locations and performs office moves and modular furniture installations.
- Mail Services handles all daily incoming and outgoing mail, inter-office mail and publications distribution (mailed) for the agency.
- Copy Center Services serves as the agency's in-house quick copy shop and provides services such as high speed photocopying, scanning, inserting mail outs, simple graphic layouts and bindery.
- Records Retention develops and maintains a current inventory and retention schedule of the agency's records and identifies and preserves essential records.
- TDI's Warehouse Services ensures proper storage of the agency's assets. The TDI Warehouse is located off site. Staff perform the receiving and delivery of goods, surplus of furnishings and equipment and supplies ordering and distribution. Staff periodically conduct inventories and reconciliations of furnishings, equipment, supplies and vehicles.
- Safety and Risk Management identifies safety risks to the agency and its employees. The agency Risk Manager identifies, monitors and reviews the agency's exposure to risks in the areas of TDI processes, procedures and programs, offering suggestions for mitigating risks when appropriate.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

In order to show the effectiveness and efficiency of the Administrative Operations Program, it is necessary to provide some background information about House Bill 7 (HB 7) passed during the regular session of the 79th Legislature. This background information will serve as a reference point for many of the accomplishments of the five divisions within the Administrative Operations Program, whose actions were essential in achieving the legislative goals of HB 7. For more information about HB 7 and its effects on the agency, please see the *Agency Strategic Plan For the Fiscal Years 2007-2011 Period*.

HB 7 merged two formerly independent agencies of equal size, the Texas Workers' Compensation Commission (TWCC) and the Texas Department of Insurance (TDI). TWCC became the Division of Workers' Compensation (DWC) within TDI on September 1, 2005. HB 7 also created a separate agency known as the Office of Injured Employee Counsel (OIEC) that is administratively attached to TDI. This structure required TDI to create separate accounting, payroll, email, server networks, purchasing systems and reporting mechanisms for the OIEC while combining these same activities for DWC and TDI. HB 7 authorized, and TDI worked with the Comptroller of Public Accounts (CPA) to transfer \$40 million of TWCC's unexpended maintenance tax from the General Revenue Fund (001) into TDI's operating account (036) for initial funding of DWC and OIEC.

In order to operate as one agency, the Administrative Operations Program successfully consolidated DWC and TDI purchasing, human resources, information technology, financial services and staff services activities. This process resulted in an initial increase in work for the Administrative Operations Program; however, staffing levels did not increase proportionately to workload. All Administrative Operations divisions have implemented more effective and efficient ways to manage the increased workload, as demonstrated by the information below.

In addition to successfully integrating the administrative functions of DWC with TDI and establishing administrative support for OIEC, key statistics and performance data that illustrate the effectiveness and efficiency of the Administrative Operations Program are discussed below. Presentation of the information is grouped by division.

Financial Services

The Financial Services Division measures the effectiveness and efficiency of its functions by evaluating key statistics, considering the results of independent audits, and successful implementation of process improvements.

- 4,500 plus travel payment vouchers processed annually.
- 10-day turn around time to process travel reimbursement, allowing sufficient time for staff to pay credit card vendor.
- 100 percent of reporting deadlines to oversight agencies met with attention to quality.
- Prepared three agency's FY 2006 Annual Financial Reports (TDI, TWCC, OIEC), which received written recognition and appreciation for thoroughness from CPA's financial reporting analyst.
- Prepared 405, 377, and 414 fiscal notes in response to legislation from the 78th, 79th, and 80th sessions. The Legislative Budget Board has complemented TDI on its responsiveness in preparing fiscal notes during legislative sessions.

Financial Services has been audited by CPA twice since FY 2004. A January 2004 post payment audit of expenditures conducted on TDI's FY 2003 travel and goods and services payments received favorable audit results. The audit concluded that TDI did not have any significant monetary issues to be projected or calculated into future years. In 2006, an audit to identify and recover duplicate payments in state agencies was performed by CPA's contracted vendor, Horn and Associates. Horn and Associates reviewed 81 of TDI's payment vouchers and determined that TDI did not have duplicate payments subject to recovery.

To improve service to TDI customers, Financial Services conducted public meetings regarding maintenance tax rates with members of the insurance industry to answer questions and to provide information regarding the maintenance tax methodology prior to publishing the rates. Attendees have praised TDI for providing useful and informative meetings.

To support the agency's customer service improvement efforts, Financial Services led the development of TDI's Customer Service reports for 2002, 2004 and 2006. The reports include the results of TDI's biennial customer satisfaction surveys, which generate program-specific business plan projects to enhance customer services. Additionally, Financial Services' BPR Director serves as the Customer Relations representative to assist customers with customer service issues.

To improve efficiency and effectiveness, Financial Services has implemented a variety of process improvement initiatives, which were to:

- automate the legislative fiscal note process to coordinate and approve fiscal notes electronically, which expedites communication.
- provide managers and assigned staff electronic access to the financial/expenditure data, allowing expedited calculation and reporting of performance measure data. Several program staff have commented on the improved efficiency in having the data available electronically.
- implement self-audits and develop performance measure calculation methodologies within DWC to establish internal controls, documented performance measure procedures, and verifiable measures thereby aligning DWC practices with those of TDI.
- revise agency strategic budget structure, including goals, objectives, strategies, and performance measures in the 2007-2011 Strategic Plan to streamline performance measures and reporting while aligning DWC's strategic goals and objectives with the HB 7 workers' compensation reform goals.
- streamline the business planning process to improve content and use of program business plans and further support agency planning and accountability.
- improve customer access to agency forms by inventorying, centralizing and posting agency forms to the Internet and by responding to forms-related emails.
- review processes of select regulatory programs at the request of the Chief of Staff, including agent licensing functions, windstorm inspections, and designated doctor scheduling to recommend improvements for program consideration.

Purchasing and Contract Administration

The Purchasing and Contract Administration Division uses key statistics, the results of independent audits, and the successful implementation of process improvements to measure the effectiveness and efficiency of its functions. Some performance highlights for FY 2006, independent audit results for the past five years, and process improvement activities are listed below.

- 2,600 purchase orders and/or contracts processed.
- 700 plus contracts administered and monitored.

- \$7 million, multi-agency contract for the statewide vehicle financial responsibility verification program negotiated.
- 37.5 percent of TDI's total expenditures spent with HUB vendors compared to the 13.7 percent statewide average in FY 2006.
- Ranked sixth of the top 25 agencies spending more than five million dollars on HUB contracts.

Independent audits of the Purchasing and Contract Administration Division included two HUB audits and two Texas Building and Procurement (TBPC) audits. The State Auditors Office conducted two audits over the past five years and found TDI to be in compliance with all but one HUB subcontracting requirement. This finding was immediately addressed and TDI is currently in full compliance. TBPC audited TDI twice over the past five years.

- TDI audited Sept 2004 - Findings Published July 2005 - 99.57% compliancy rating.
- TDI audited March 2003 - Findings Published June 2003 - 99% compliance rating.

TDI uses a real-time purchasing management system, which allows electronic access to and management of agency purchase requisitions and orders. The Gateway Purchasing System eliminated some duplicate data entry, integrated data for approvals, receiving and payment and facilitated production of all relevant forms from one system. A separate Gateway Purchasing System was purchased and implemented to process OIEC transactions.

To streamline processes, the Purchasing Division automated Gateway reports to more efficiently generate data for oversight agencies. Additional process improvements included consolidating agency contracts across programs to streamline the contracting process and to take advantage of vendor pricing incentives and discounts. To facilitate electronic access to agency contracts and staff's understanding of the procurement process, the Purchasing Division scanned contracts and enhanced its Intranet site to provide additional information and instructions.

To improve customer service to agency staff, the Purchasing Division established the roles of DWC purchasing liaisons, requisitioners and contract administrators in Austin and TDI field offices throughout Texas as part of the HB 7 (79th Legislature) integration. Additionally, to facilitate proper training of all purchasing staff across the state, the division implemented webinars, which provide real-time, interactive training and instructions to staff.

TDI makes a good faith effort to increase utilization of HUB vendors. To do so, the Purchasing Division hosted annual TDI HUB forums and participated in forums across Texas in an effort to locate minority- and women-owned businesses. Through the forums, HUB participants meet agency staff and learn about TDI's procurement opportunities.

For FY 2007, the Purchasing Division is currently identifying and evaluating all office equipment (copiers, printers, faxes and scanners) and maintenance contracts at the Metro Center, Hobby Building and all field office locations. Purchasing will recommend a solution for office equipment based on the evaluation.

Information Technology Services

Information Technology Services measures the effectiveness and efficiency of its services by evaluating key statistics, customer surveys and feedback, considering the results of independent audits, and successfully implementing process improvements.

Key statistics and performance highlights are listed below.

- 876 hours of instructor-led training offered over the past five years
- 231 hours of self-paced training offered over the past five years
- 99.75 percent server “uptime” provided for the past five years
- 78 percent of computer help desk calls are received electronically instead of by telephone, which facilitates better use of ITS staff time and prompt completion of the help desk call
- 76 percent of ITS employee time is spent in direct support of formal agency projects
- 100 percent of reporting deadlines were met for fiscal years 2006 and 2007
- 18 audits conducted by TDI’s Internal Audit Division over the past five years confirmed ITS processes and procedures support recognized information technology industry best practices
- 24 DWC field office servers were replaced by six central servers, which improved the agency’s network computing environment
- TDI has not experienced any computer downtime for the last few years from computer viruses or Internet hacking, which indicates ITS maintains a secure network environment
- ITS conducts annual external penetration exercises to test the security of TDI’s technical environment.

To improve services to TDI’s programs, ITS implemented several processes and tools, such as self-paced technology training, self-service system for submitting help desk calls and a robust project management and timekeeping software package. Additionally, ITS drafts a five-year technology architect roadmap, which serves as a blueprint for future agency technology acquisitions and deployments, and as a guide for programs seeking technological solutions to business-related problems within the agency’s technical infrastructure.

To keep pace with technology and explore technical solutions for TDI’s computing environment, ITS initiated the use of NOREX TeleForums, a professionally moderated discussion group that enables members to share topic-specific information with peers. TeleForum agendas are based on questions submitted by the participants, so members can tailor a discussion to meet their needs.

Lastly, to explore opportunities for significant cost-savings to the agency, ITS participated in the testing of an email system known as statewide enterprise messaging. Based on test results, ITS has proposed further exploration to determine whether TDI should replace its GroupWise email system with statewide messaging email services, as managed by IBM through a statewide master contract negotiated by the Department of Information Resources.

Human Resources

The Human Resources Division measures the effectiveness and efficiency of its functions by evaluating key statistics and turnaround times, considering the results of independent audits, and the success of process improvements that facilitate the agency with retaining and attracting a professional and highly-qualified workforce.

Key FY 2006 statistics and performance measures that demonstrate the effectiveness of the Human Resources Division include:

- 5,320 employment applications processed
- 1,906 personnel actions processed
- 67 personnel actions processed for OIEC staff
- 589.5 hours of instructor-led professional development training
- 270 hours of training through mediums such as video-streaming, video and CD ROM
- 80,353 agency switchboard calls answered and routed to appropriate areas

- 100 percent of all payroll reporting deadlines met with less than a one percent error rate.

For the last four years, HR has been audited by the State Classification Office twice, TDI's Internal Audit Division, CPA, and Texas Workforce Commission Civil Rights Division. With the exception of minor findings for CPA's post-payment audit of TDI's payroll, HR was in compliance with applicable law or practices for four of the five audits conducted, including job classifications, hiring procedures, promotions, performance evaluations, disciplinary actions, work place accommodations, and equal employment opportunities. Additionally, internal audit's review of agency ethics showed that HR and the Ombudsman/Ethics Advisor have provided both management and employees with adequate resources to handle ethics issues as they arise.

To facilitate the agency's objective of recruiting and retaining a diverse workforce of qualified and skilled individuals, HR prepares and provides annual workforce summary reports to the program areas. These reports include information to assist the areas with workforce planning, including demographics, employee turnover information, salary levels and other pertinent information.

On an annual basis, HR assesses the average time to fill vacant positions in order to measure how efficiently it is at meeting the agency's objective to recruit and retain qualified staff. In January 2007, HR evaluated the hiring process and implemented several process changes and standards that streamline the process and improve the time it takes to fill vacant positions. Prior to streamlining the process, HR requested recommendations from the programs. Highlights of the changes include, delegating the Chief of Staff's final approval for routine personnel actions to HR, transferring the responsibility for obtaining education documentation and verifying previous employment from HR to managers and their designees, and implementing standards to evaluate the accuracy and timeliness of HR staff's performance when processing personnel actions.

In addition to streamlining the agency's hiring process, HR recently expanded its recruitment efforts to specifically target more minority and professional groups. To accomplish this goal, HR conducted research to identify minority colleges, universities and professional organizations. HR's research culminated in a database that TDI will use to regularly provide the entities identified with agency vacancy information, thus effectively reducing hiring time while increasing minority and hard-to-fill position recruitment efforts. HR is also working with TDI's employee committees to generate ideas for expanding the agency's recruitment efforts. Recruitment performance standards were implemented for HR specialists, including developing a recruitment plan for each professional position posted at TDI. These performance standards are a part of each HR specialist's individual performance review.

The acquisition of 24 field offices following the HB 7 merger, presented a challenge for cost effective delivery of professional development. TDI recognized the importance of providing direct training and delivering the same quality of training as is provided at the central offices. To achieve this objective, trainers were deployed to the field and field staff were invited to Austin for certain courses. Additionally, to leverage resources and accommodate field office employee training needs, TDI expanded use of mediums such as video-streaming, video and CD ROM. Courses offered to DWC field office staff included new employee orientation, courses on communication, customer service, defensive driving and insurance, management training, orientation, and policy review.

Staff Services

Staff Services measures the effectiveness and efficiency of its services by evaluating key statistics, analyzing the impact of the increased number of office moves and workstation reconfigurations, and implementation of process improvements.

Key statistics and performance highlights are presented below.

- 1,000,000 pieces of mail were processed annually during the past five years.
- \$12,000 annual savings achieved by eliminating duplicate courier services during the HB 7 merger.
- Created a procedures manual identifying the most cost effective mailing methods for the agency.
- Purchased a barcode reader and software in FY 2003 to enhance the speed and accuracy of conducting the annual fixed asset inventory.

The merger with TWCC, subsequent DWC reorganizations and natural disasters have resulted in many office moves, workstation additions, and reconfigurations. For example, in June 2006, Staff Services completed a major renovation project at the Metro Center location that effectively reduced the number of workstations from 56 to 32.

Staff Services places a very high priority on reducing workplace injuries and accidents. To achieve this objective, Staff Services provides safety training and awareness that encourages workplace safety and has resulted in a safe work environment for TDI employees. During the past five years, the TDI Safety Officer/Risk Manager has conducted monthly safety training, physically inspected workstations and work areas and has distributed safety information to TDI staff. The effectiveness of TDI's comprehensive safety program can be measured by the number of injuries reported and accepted as workers' compensation claims and the annual review conducted by the State Office of Risk Management (SORM). Each year for the past five years, the number of injuries that TDI reported and SORM accepted as workers' compensation claims averaged less than one percent of the total number of TDI's FTE's. The agency has routinely received excellent reviews from SORM, including two risk management program reviews in the last four years that resulted in a total of five recommendations for improvement. These five recommendations were considered minor and were implemented immediately.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

2003 - Human Resources reorganized in order to meet mandated (GAA, Art. IX, Sec. 12.02) staffing levels for Human Resource departments in agencies with greater than 500 employees, which limit agencies to employing a maximum of one human resources staff for every 85 employees.

2005 - HB 1516 (79th Legislature, 2005) required 27 state agencies, including TDI, to outsource its information and telecommunication functions to managed statewide information centers under the direction of the Department of Information Resources (DIR). As a result of the provisions in HB 1516, 23 TDI technology positions were transferred from TDI to the data center consolidation vendor in April 2007.

2005 - TDI achieved the mandates of HB 7 (79th Legislature, 2005) pertaining to the abolishing of TWCC and transfer of its administrative support functions to TDI. The agency established joint budgeting and accounting mechanisms with CPA, reconfigured the computing environment and processes to accommodate the newly created DWC at TDI, consolidated contracts, transferred the payroll, transferred the fixed assets inventory, and met all reporting deadlines. Also as a result of HB 7, TDI began providing facilities and administrative support to the newly created OIEC.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Administrative Operations primarily serves internal customers of the agency, but there are some external interactions with oversight agencies, state and federal agencies, vendors, and the public. Mail operations, printing services, publications distribution and telecommunications also impact external customers and stakeholders as well. Affected persons or entities include:

- TDI staff = 1627.1 FTE as of August 31, 2006
 - Hobby = 59 percent
 - Metro = 41 percent
- OIEC staff – 97.75 FTEs as of August 31, 2006
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 licensed to do business in Texas
- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- State agencies
- Applicants for employment = 5,320 applicants in FY 2006
- Vendors, Contractors, Special Deputy Receivers, Trade organizations.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Chief of Staff is the director of the Administrative Operations Program. The program consists of five divisions. Financial Services is directed by the Chief Financial Officer (CFO). Information Technology Services is directed by the Information Resources Manager (IRM). Purchasing and Contract Administration is headed by the Director of Purchasing and Contract Administration. Human Resources is directed by the Deputy Commissioner for Human Resources; and Staff Services is managed by the Director of Staff Services.

The Administrative Operations Program encourages its employees to seek professional development and training that will benefit the employee as well as the program area. Employees have the opportunity to attend any internal training courses offered by TDI. Supervisors and managers may also approve external training when the training is appropriate or if the employees' job duties require it.

Administrative Operations understands the importance of succession planning and has developed strategies to minimize the impact on services to the agency when tenured staff retire or resign from the agency. Ongoing/future succession planning activities within Administrative Operations are described below.

- Internal procedure manuals are in place or are in the process of being developed for documentation of standard operational procedures to be used in cross-training and succession planning.
- A comprehensive training program has been delivered to educate current and future managers to prepare them to be more effective leaders.
- BPR staff led a research project on the conceptual framework of succession planning and has recommended a model methodology for agency succession planning.
- Human Resources continually identifies eligible retirees and closely monitors positions nearing retirement.

- Managers regularly review job functions and identify staff for cross-training.
- Management and Human Resources continuously assess training needs to develop the skills of less experienced staff to ensure continuity of operations following retirements.

Monthly deputy commissioner meetings facilitate intra-agency communication and prepare mid-level management for leadership positions by furthering participants' understanding of agency policy and regulatory issues.

Administrative Operations successfully merged the administrative areas of TWCC and TDI to comply with the requirements of HB 7. Accomplishments of this major undertaking are detailed in the report titled *HB 7 – Consolidation of Support Services Progress Report June 1, 2005 –November 30, 2006*, which is available for review.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

The administrative functions conducted at TDI are similar to those in other state agencies. TDI has relationships with oversight agencies and one outside vendor that conduct similar or related activities. For example:

- TDI calculates and sets the rates to be charged to insurance entities for maintenance taxes; the Comptroller bills and collects the taxes.
- DIR and TBPC enter into contracts with vendors on behalf of all state agencies; TDI contracts with those vendors through the statewide contracts when appropriate.
- DIR is implementing H.B. 1516 which requires a state data center; as a participating agency, TDI has transferred positions to the H.B. 1516 vendor and will receive services from the state data center.
- TDI has a contract with a vendor to provide employee assistance services; the vendor provides some training classes to TDI employees.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

In cases where TDI has coordinated with other agencies to administer support services, TDI has entered memorandums of understandings and/or contracts to clearly articulate respective responsibilities and avoid duplication of functions. For example, DIR and the TBPC enter into contracts with vendors on behalf of all state agencies and TDI contracts with those vendors through the statewide contracts when appropriate. Additionally, TDI calculates and sets the rates to be charged to insurance entities for

maintenance taxes;

CPA bills and collects the taxes. TDI and CPA entered a memorandum of agreement to delineate responsibilities of both parties relating to the sharing of tax information. TDI coordinates closely with CPA, DIR, TBPC, and the employee assistance vendor to ensure that services are not duplicated and that there is no conflict between the services provided.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

TDI coordinates with federal agencies to administer grants that fund special TDI activities. Recent federal grants include:

- U.S. Department of Labor – TDI annually receives three grants from this entity. The purpose of the grants are to 1) conduct surveys on occupational injuries and illnesses and gather information on fatal occupational injuries, 2) provide consultation services identifying and controlling workplace safety & hazards and improving workplace safety and health programs, and 3) provide occupation injury and illness and employment data to OSHA.
- Department of Health and Human Services - From the spring of 2001 to February 2007, TDI participated in a federally-funded State Planning Grant (SPG) program designed to help participating states develop strategies to significantly reduce their number of uninsured citizens and develop options for expanding health insurance to uninsured Texans.
- Department of Homeland Security – From April 2004 to August 2005, TDI received a one-time grant to disseminate materials to the public regarding effective methods of fire safety and prevention.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Commissioner's Area
Location/Division	William P. Hobby, Jr. Bldg., Tower I, 5th and 13th Floors
Contact Name	Karen Phillips
Actual Expenditures, FY 2006	\$2,599,161.82
Number of FTEs as of August 31, 2006	40.6

B. What is the objective of this program or function? Describe the major activities performed under this program.

Objectives

The objectives of the Commissioner's Area are to:

- provide executive leadership and policy direction to the Texas Department of Insurance;
- ensure that the agency's activities are compliant with all statutory and regulatory requirements and consistent with the agency's goals, objectives, purpose, and policies;
- ensure accountability and integrity of all areas of the agency;
- provide assistance and information in a responsive manner to the Legislature;
- provide information to the public and the media on matters and issues within the regulatory responsibilities of the agency;
- minimize formal and informal employee complaints, including harassment and discrimination complaints, by resolving manager-employee and employee-employee communications issues.

Major Activities

The Commissioner's Area includes the Commissioner of Insurance and executive support staff, the Chief of Staff, the Associate Commissioner of Public Affairs, the Employee Ombudsman and Ethics Advisor, the General Counsel and Chief Clerk's Office, Government Relations, Internal Audit, and the Public Information Office.

The Commissioner of Insurance, appointed by the Governor with the advice and consent of the Senate, is the agency's chief executive and administrative officer. As the agency's chief administrator, the Commissioner oversees agency regulatory functions, establishes agency operating procedures and enforces state insurance laws, which includes initiating disciplinary and legal actions against violators. As part of his regulatory duties, the Commissioner issues, reviews, regulates, and promulgates rates for various lines of insurance. The Commissioner adopts rules, implements new laws, and addresses problems in regulating companies and agents. He also coordinates all facets of public relations, communication, and tracking of emerging issues. In addition, the Commissioner appoints individuals to advisory boards and committees and oversees their operations. The Commissioner is supported by a small staff shown on TDI's organizational chart as public affairs and executive services.

The Chief of Staff leads a variety of agency-wide initiatives on behalf of the Commissioner. The Chief of Staff ensures that the agency complies with Government Code provisions enforced by oversight agencies such as the State Auditor's Office, the Comptroller of Public Accounts, the Texas Building and Procurement Commission, and the State Office of Risk Management. The Chief of Staff also coordinates executive communications and assists the Employee Ombudsman and Ethics Advisor in matters not

requiring the Commissioner's action. In addition, the Chief of Staff oversees Administrative Operations, which includes the agency's financial services, information technology services, human resources, purchasing and contract administration, and staff services divisions. (See Section VII for Administrative Operations.)

The Associate Commissioner of Public Affairs reports to the Commissioner. Primary responsibilities include advising the Commissioner, coordinating all facets of public relations and communication to ensure consistent messaging, public speaking, and representing the agency at events where strategic communication is required.

The Employee Ombudsman and Ethics Advisor provides an outlet for employees to discuss their concerns and problems in private. The Ombudsman also is charged with helping encourage positive communication between agency managers and employees; helping resolve workplace complaints, grievances, or disputes; helping agency employees with ethics questions; and assisting Human Resources with providing employee training, such as the state-mandated sexual harassment and discrimination classes.

The General Counsel/Chief Clerk serves as the Commissioner's legal adviser on both contested and non-contested cases and assists in developing rules, setting rates, and handling various appeals to the Commissioner, including appeals from decisions of boards and associations supervised by the Commissioner. In addition, the office coordinates matters involving contested case proceedings, policy issues, and rule-making; performs legal research; certifies rules for the agency; approves all bulletins issued by the agency and the Commissioner; and maintains records and proceedings involving Commissioner actions. The office also coordinates hearing notices and hearing scheduling with the State Office of Administrative Hearings (SOAH), along with providing a required court reporter for hearings. The General Counsel/Chief Clerk also maintains the Commissioner's agendas and bulletins and the Texas Administrative Code and manual rules posted on the agency website; approves and processes non-disciplinary and non-rate orders; maintains and prepares all contested-case hearing files (Official Administrative Record) and all other administrative hearing files of the Commissioner of Insurance or his delegate for archiving; and assists the Office of the Attorney General in related appeals filed in district court.

Government Relations is TDI's liaison with the Legislature and other governmental entities. Major responsibilities include: helping the Commissioner develop legislative recommendations for improving insurance regulation in Texas; reporting information regarding TDI activities and the insurance market to the Legislature; coordinating and tracking agency-wide responses to legislative and constituent inquiries; monitoring and analyzing legislation affecting the agency; updating agency staff on the status of legislation; coordinating the appearance of agency staff for testimony before various legislative committees; overseeing implementation of legislation; compiling and indexing all insurance and agency-related legislation for inclusion on TDI's website; and distributing requested information to legislators, committees, and other governmental entities. This office researches and reviews the appointment of persons to statutorily-created advisory committees and boards that assist TDI. Finally, Government Relations maintains consumer liaisons for insurance inquiries and for workers' compensation inquiries.

Internal Audit provides an independent, objective quality assurance and consulting activity designed to improve an organization's operations. Internal Audit helps the agency accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management and agency processes. Major quality assurance and consulting activities are included in annual reports. Quality assurance services include objective and independent examinations, such as financial, compliance, economy and efficiency, effectiveness, investigations, and information technology engagements. Internal Audit also provides consulting services. Consulting services are advisory in

nature, and the scope is agreed upon with the client and intended to improve an organization's governance, risk management, and control processes. Examples include counsel, advice, facilitation, and training.

The objective of the Public Information Office (PIO) is to provide the media and the public at large – both consumers and insurers – with accurate information about insurance, the insurance market, and the regulatory activities of TDI. As the agency's primary contact with the media, this office researches, writes, edits, and distributes news releases announcing agency actions; conducts and coordinates interviews with the media; assists the Commissioner in drafting articles and consumer columns for various publications; and responds to information requests from the media.

PIO provides several services to agency staff. For example, PIO establishes website standards and provides graphics and printing services to the agency; monitors and clips news articles from all major Texas newspapers and from several national newspapers that provide insurance-related news; meets the agency's needs for web audio broadcasts; produces TDI's employee newsletter, *The Bulletin Board*; and coordinates and provides taped and live radio and television interviews. PIO writes and oversees production of radio and television public service announcements, and arranges media support for agency officials conducting events such as public hearings and town hall meetings.

PIO assists outside entities by responding to news-related inquiries from regulators, legislators, consumers, agents, and insurance company personnel; coordinates writing and editing of TDI's Annual Report to the Governor and Legislature; produces TDI's regulatory newsletter, *TDInSight*; and designs and updates the agency's websites, www.tdi.state.tx.us, www.helpinsure.com, and www.texashealthoptions.com.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The evidence of effectiveness and efficiency for the Commissioner's Area is presented below.

The counseling and training offered by the Employee Ombudsman and Ethics Advisor contributes to the agency's scores on the biennial Survey of Organizational Excellence, which measures the effectiveness of the agency's internal communications, teamwork, supervision of employees, and stress management. Additionally, the Ombudsman offers an informal mechanism for resolving employee concerns, which mitigates potential litigation regarding personnel matters. In FY 2006, the Ombudsman traveled to all Division of Workers' Compensation (DWC) field offices to conduct orientation, sexual harassment and discrimination classes. The Ombudsman also met and consulted with agency executive management and division heads regarding the Survey of Organizational Excellence and Ethics Survey.

The activities of the General Counsel/Chief Clerk's Office help mitigate lawsuits against the agency by providing the Commissioner with appropriate legal advice, including statutorily-created entities' rate proceedings. In FY 2006 the office reviewed, briefed, and advised the Commissioner on:

- 53 contested cases heard by SOAH
- 31 hearings and public meetings conducted by the Commissioner
- 13 appeals of Texas Windstorm Insurance Association decisions
- 37 new, repealed, or amended Texas Administrative Code (TAC) rules proposed and adopted
- 260 consent orders
- 96 default orders

- 42 contested orders.

Government Relations plays a key role in implementing the legislation that impacts TDI. In FY 2006, GR tracked, coordinated, and published to the website implementation activities of 126 insurance-related bills passed during the 79th Legislative Session (2005), which resulted in approximately 302 implementation items for TDI. In addition, the office co-managed implementation of Senate Bill (SB) 1670 (79th Legislature, Regular Session, 2005), among implementing agencies and working group members. SB 1670 added Subchapter N to Chapter 601 of the Transportation Code, which requires TDI, in consultation with the Texas Department of Public Safety, the Texas Department of Transportation, and the Texas Department of Information Resources to establish a program for verification of whether owners of motor vehicles have established financial responsibility. Additionally, Government Relations assisted agency staff with implementation of House Bill (HB) 7 (79th Legislature, Regular Session), with special focus on administrative consolidation of the former Texas Workers' Compensation Commission into the TDI Division of Workers' Compensation, rule development, and coordination of ongoing transition decisions.

The audits conducted by TDI's Internal Audit Division assist the agency with ensuring that best practices are used throughout the agency. Each fiscal year the division sets the following goals:

- Complete 80 percent of the scheduled Audit Plan projects
- Spend a minimum of 75 percent of total hours available on direct audit or consulting work
- Obtain management acceptance of 95 percent of audit issues and/or recommendations
- Obtain management satisfaction on at least 80 percent of audit assurance and consulting activities
- Complete development and approval of the Annual Audit Plan by the end of September
- Complete the Annual Internal Audit Report in accordance with Texas Government Code Section 2102.008 by the first of November.

TDI's Public Information Office is integral to communicating with the media and the agency's customers. In FY 2006, PIO completed the following activities.

- Published 6 bimonthly issues of *TDInsight*, providing industry stakeholders and policymakers with timely information on key issues and regulatory actions, in a readable, visually interesting format;
- Issued 46 press releases, covering agency response to Hurricanes Katrina and Rita, the insolvency of Vesta/Texas Select, enforcement actions taken against Texas insurance agents and agencies, fraud alerts, market conditions, among others;
- Facilitated 23 statewide events for the Commissioner;
- Responded to 436 media calls and interview requests;
- Implemented Collage content management software for TDI's websites to allow automation of routine maintenance and audit/recovery capabilities;
- Created website/intranet site for Office of Injured Employee Counsel (OIEC);
- Enhanced TDI web presence by improving online search function, implementing more precise online translation software, and creating automatic e-mail notices;
- Joined with representatives from the Red Cross, Federal Emergency Management Agency, and Insurance Council of Texas on tour of coastal media markets to speak with media and civic groups regarding hurricane preparedness;
- Participated in Health Coverage Awareness and Education Task Force and Workers' Compensation Networks Communication Team;
- Provided print design and media presentation at Juvenile Firesetter Intervention Program conference sponsored by the State Fire Marshal's Office;
- Provided live and archived audio broadcasts of public hearings via the Internet.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

1995 - Creation of Employee Ombudsman and Ethics Advisor position to assist employees at all levels in resolving problems related to their jobs without having to file a formal complaint. The Ombudsman reports directly to the Chief of Staff, with direct access to the Commissioner as the Ombudsman deems appropriate. In 1995, the role of the Ombudsman was expanded to include the added responsibility of serving as the agency's Ethics Advisor and conducting management training at the agency.

2006 - TDI enhanced its internal fraud prevention efforts by developing a comprehensive fraud prevention program that included the development of a fraud prevention manual and the formation of an agency fraud panel, which is comprised of the Chief of Staff, Director of the Fraud Unit, Director of Internal Audit, Employee Ombudsman and Ethics Advisor and Agency Counsel. The fraud panel reviews all allegations of internal fraud, waste or abuse of TDI resources and determines the appropriate action.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Commissioner's Area affects insurance companies, agents and adjusters; consumers; media entities; members of the Legislature and their staff; and agency staff. These affected groups include:

- 2,437 insurers and various other types of insurance-related entities
- 347,830 agents and adjusters licensed to do business in Texas
- 23,507,783 consumers (2006 U.S. Census) in Texas
- 1,059 newspaper and other media correspondents in Texas
- 181 Texas legislators and their staff
- 1,627.1 full-time equivalent (FTE) agency staff as of August 31, 2006.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Chief of Staff conducts an executive staff meeting at least monthly. The Commissioner of Insurance communicates with the Commissioner of Workers' Compensation several times weekly and with agency program directors on a defined schedule, and with managers in the Commissioner's Area as needed. Each program head that directly reports to the Commissioner of Insurance maintains a project tracking list as requested by the Commissioner and provides bi-weekly or monthly written reports for the other members of executive staff.

The Commissioner initiated a monthly meeting of "deputies," managers who report to Senior Associate and Associate Commissioners. The Deputy Commissioner for Human Resources coordinates the meetings, and the programs rotate responsibility for facilitating the meetings. The meeting provides an opportunity for all agency managers to share ideas and dilemmas with a variety of other agency managers outside of executive staff and personnel who report directly to the Commissioner.

The Commissioner receives monthly reports from the General Counsel/Chief Clerk, including information about:

- pending SOAH enforcement hearings
- non-rules hearings
- status of rules in development.

The Commissioner also receives monthly reports from the agency's Chief Financial Officer and the Deputy Commissioner for Human Resources regarding agency funding issues, performance measures, and workforce statistics.

Finally, the Commissioner has initiated a quarterly market trends report that is prepared by a cross-section of agency experts, which is chaired by the Financial Program's Associate Commissioner.

The Commissioner promotes cross-divisional communication channels within the agency to improve operations and coordination among agency programs. Ultimately the goal is to enhance strategic planning and adaptability to changing times and market conditions.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

General Counsel / Chief Clerk

The Legal Services and Enforcement programs and the General Counsel all provide legal support to the agency. The General Counsel/Chief Clerk serves as the Commissioner's legal adviser on both contested and non-contested cases, reviews and certifies rules, reviews all Commissioner Orders for final approval, assigns bulletin numbers for each program area as necessary, maintains official records of SOAH cases and Commissioner dockets, provides court reporters services for hearings and transcripts when requested, and prepares Administrative Records for district court when the Office of the Attorney General requests records.

Pursuant to Chapter 31 of the Texas Insurance Code, the Commissioner is the Chief Executive and Chief Administrator of TDI. He is responsible for administering as well as enforcing the provisions of the Texas Insurance Code. In contested case matters, he is the final decision maker. As provided in Chapter 2001 of the Texas Government Code, the Commissioner may not engage in communications with any party involved in a contested case unless all parties are given notice and the opportunity to participate in the communication. The General Counsel serves as the Commissioner's legal advisor to ensure that decisions of the Commissioner as Chief Executive in contested case matters are not influenced by improper communications from the parties, including the Legal Services and Enforcement team of the agency.

In contrast, the Legal Services and Enforcement programs prepare drafts of proposed and adopted rules, initiate and prosecute cases with SOAH, and compile Commissioner Orders in non-contested case settings.

Government Relations

All agency programs may respond to requests from the Legislature with advice and direction from Government Relations.

Internal Audit

The State Auditor's Office (SAO) conducts similar functions to Internal Audit. The SAO serves under the legislative branch and reports to the Legislative Audit Committee. SAO performs statewide audits and has authority to conduct audits at all state agencies and institutions of higher education. It has a statewide risk assessment to determine the audit projects for its audit plan. Internal Audit performs audits of TDI operations and reports to the Commissioner of Insurance.

The reviews performed by the SAO and Internal Audit are similar. These may be financial, compliance, economy and efficiency, effectiveness, special request, or investigations. In addition, Internal Audit may assist management by performing advisory type services. Both the SAO and Internal Audit are required to follow professional auditing standards while carrying out their work.

Public Information Office

Both the PIO and the Consumer Protection program provide a similar service of supplying information to the public.

The PIO receives inquiries from news-gathering organizations and other public and private publications that have questions about insurance issues or current events at TDI. The PIO then coordinates actions within the agency to provide an appropriate response. The PIO also prepares internal and external newsletters for distribution, coordinates TDI's Annual Report, assists the Commissioner's Office in developing speech materials, prepares press releases, and coordinates Internet activities.

In contrast, the Consumer Protection program is the primary point of contact for individual consumers with insurance questions or complaints about agents or companies. The Consumer Protection program also develops educational materials and presentations on insurance issues as they relate to consumers. These publications and brochures are available online and by request in hard copy.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

General Counsel / Chief Clerk

The Legal Services program and the General Counsel coordinate memorandums of understanding (MOU) that are finalized between TDI and other state agencies and other entities, and distribute information regarding Commissioner Orders and contested cases to appropriate parties, which include Enforcement staff attorneys, SOAH administrative law judges, the legal counsel for the ordered respondent(s), and the ordered respondent(s).

The Legal Services program assists the programs of the agency to develop rule proposals and notices as are required and requested. The General Counsel advises Legal Services and other programs on preferred content of the rules, and reviews the rules prior to publication in the *Texas Register*.

The General Counsel provides legal counsel to the Commissioner. It is especially important that this function remain separate and distinct from the activities of the Enforcement Program as the Commissioner is prohibited from discussing the substance of contested cases with any party, including Enforcement staff (Texas Government Code, Section 2001.061). Enforcement and the Office of General Counsel/Chief Clerk work together to establish and maintain procedures in contested cases.

Government Relations

All programs within TDI are required to respond to legislative requests from elected officials and their staff. Any information provided in response to a legislative request is coordinated and communicated through Government Relations, which either responds directly or works with the programs to obtain and review the information to provide a uniform TDI response. Additionally, the programs are requested to make sure that Government Relations is notified and made aware of any legislative contacts. The programs are also instructed to direct requests for bill comments or resource information about legislation to Government Relations for handling. TDI acts as a resource for the Legislature, and Government Relations serves as TDI's liaison.

Internal Audit

Internal Audit's Annual Audit Plan and copies of all completed projects are sent to the State Auditors Office (SAO). The SAO uses this information in its risk assessment to avoid duplication of work already performed or scheduled to be performed by Internal Audit. In addition, the SAO assigns a contact manager to each agency. Internal Audit maintains a working relationship with the SAO contact and communicates with the contact regarding TDI's Annual Audit Plan.

When the SAO performs audits at state agencies, it uses an MOU so the agencies being audited and the SAO know what is expected. Internal Audit is the liaison with the SAO on projects at TDI. This helps Internal Audit reduce duplication of future audits.

Public Information Office

The PIO and the Consumer Protection program interact and coordinate to avoid duplication when media outlets have questions regarding consumer issues, when developing press release material about issues directly relating to consumer matters, and on distribution of educational materials beneficial to consumers or the insurance industry.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Commissioner and/or Associate Commissioner of Public Affairs occasionally correspond or meet with local, regional, or federal officials regarding activities discussed in TDI's Self-Evaluation Report.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Consumer Protection – General Management and Special Work Assignments Team
Location/Division	William P. Hobby Building, Tower I, 11th Floor
Contact Name	Audrey Selden, Senior Associate Commissioner
Actual Expenditures, FY 2006	\$519,827.11
Number of FTEs as of August 31, 2006	6

B. What is the objective of this program or function? Describe the major activities performed under this program.

Consumer Protection (CP) encourages fair treatment of consumers and fosters industry competition by:

- assisting consumers with inquiries and insurance complaints
- educating consumers about insurance and providing information to help them shop for the insurance they need at the best possible price
- reviewing insurance advertisements to prevent distribution of misleading information and to detect possible fraudulent activities
- disseminating timely information about regulatory requirements.

The General Management Section oversees program staff and directs its business operations. The Special Work Assignments Team (SWAT) performs program-wide functions. These include business and strategic planning, performance measure auditing, administration of CP’s automated systems, maintenance of TDI’s consumer web pages, data collection, and coordination of business process improvement projects.

In addition, General Management and SWAT coordinate the agency’s response following a disaster. General Management and SWAT solicit and schedule agency volunteers to assist consumers in impacted areas, make travel and other arrangements for the volunteers, and provide support to staff in the field. CP also leads the Texas State Disaster Coalition (TSDC), a group of state agency, consumer, and industry representatives who work together to provide a smooth and unified response during and after disasters. Additional information about TSDC is available for review.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

CP was recognized in 1996 with a Greater Austin Quality Award for “commitment to quality.” The Senior Associate Commissioner for Consumer Protection was awarded the Ma Ferguson Award for Excellence in the Public Sector in 1997. In addition, CP has been recognized as a “best practice” model for its consumer information call center, complaints resolution process, and consumer outreach program by the following organizations:

- The Urban Institute, Washington, D.C.
- Florida, Oklahoma, New Mexico, and Pennsylvania Departments of Insurance
- U.S. General Accounting Office
- National Association of Insurance Commissioners
- Texas State Auditor's Office.

TDI participates in the biennial survey of state agency employees, the Survey of Organizational Excellence, conducted by the University of Texas at Austin's School of Social Work. In 2006, CP's scores in every construct increased over the 2004 scores. CP's scores continue to be above both the agency and statewide averages. The biggest increases were in supervisor effectiveness, employment development, strategic orientation, and internal communication. More than one CP activity ranked in the agency "top ten." Survey administrators have twice invited CP's Senior Associate Commissioner to make presentations on management strategies for using survey data. A video of the presentation is available on the survey website at http://www.utexas.edu/research/cswr/survey/site/practice/forum_cd/Forum2002/tdi.html.

Please see the performance measure charts in each division's Section VII.C response. In addition to performance measures, CP uses input from staff surveys (such as the Survey of Organizational Excellence and other feedback) and from consumer surveys to continually monitor effectiveness and efficiency.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

1991 - The 72nd Legislature required TDI to help resolve policyholder complaints and maintain data relating to the number of complaints received against an insurer. The legislation also required TDI to publish a complaint ratio for each insurer. The ratio is the number of justified complaints against an insurer expressed as a percentage of the insurer's total number of policies. In addition, the law created specific timelines for prompt payment of first-party claims.

1992 – An agency reorganization resulted in the creation of the Consumer Services Program, which would later be renamed Consumer Protection. The new program contained Complaints Resolution, Information Assistance, Public Education, and Advertising divisions. Long-term care insurance ads were first required to be reviewed.

1994 - CP refined its complaints process to improve quality and efficiency. Changes made to the Complaints Inquiry System (CIS) allowed letter generation to move from overnight batch processing to direct production. Staff also began using keywords to code complaints and began an auditing process to further monitor work quality. CP developed TDI.nfo, an informational database with links to the Texas Insurance Code, agency rules, fact sheets, etc. to enhance staff's ability to provide consistent and accurate responses to consumers. CP created an online complaint form to assist consumers reporting insurance concerns. Consumer publications were placed on the website to allow viewing and download.

1996 – Advertising reviews were first required for viatical settlements (amended to include life settlements in 2001).

1998 – CP began a project to implement a "paperless" complaints process. CP purchased a call monitor system to better evaluate handling of calls to the Consumer Help Line.

1999 – The Legislature enacted provisions to expedite payment by HMOs and issuers of preferred provider benefit plans for "clean claims" submitted by contracted physicians and providers. The

Publication Order Process (POP) database was developed. The database allows staff to enter customer requests for TDI publications into an online form. POP generates a daily report and mailing labels used by TDI Mail Services staff to mail or ship publications to requesters.

2000 – To provide easier access to information about insurance companies, TDI placed its Practice and Claims Company Inquiry (PCCI) application on the agency’s website.

2001 – CP implemented a paperless complaints process. Federal regulation preempted prior filing requirements for most Medicare HMO ads. The Senior Associate Commissioner for CP was appointed by the Commissioner as the Provider Ombudsman to assist health care providers with issues about prompt payment of claims. Additional prompt pay information is available for review. TDI, the Governor’s Division of Emergency Management, and the Institute for Business and Home Safety formed the Texas State Disaster Coalition to assure swift and effective assistance to Texans after a disaster.

2003 – The Legislature enacted provisions to streamline and standardize claim filing and prompt payment processes. The statute also required carriers to provide quarterly provider claims data reports. The legislation and outreach efforts led to a decrease in the number of provider complaints. Internet hits to consumer publications on the website exceeded the number of paper copies distributed for the first time.

2005 – The 79th Legislature required TDI to promote and publicize health coverage options available to Texans through a health coverage awareness program and a website (www.TexasHealthOptions.com).

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

CP affects insurance consumers, companies, and agents. The statistical breakdown is:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

General Management comprises the Senior Associate Commissioner and an Executive Assistant. SWAT has a team leader and three staff members. General Management directs CP’s four divisions:

- Complaints Resolution – resolves consumer complaints and returns money to Texans.
- Information Assistance – answers questions about insurance via the toll-free Consumer Help Line.
- Public Education – distributes consumer publications to Texans in print and via TDI’s website, conducts public outreach, and responds to open records requests.
- Advertising Unit – reviews insurance advertisements to assure truth in advertising.

Each division is led by a manager. Staffing among the divisions varies. Please see the divisions’ separate Section VII responses for more information on the individual divisions and their activities.

CP uses a “high tech-high touch” approach to assist consumers, inform the insurance industry, and train

staff. Communication is a key management priority. Each division and the program as a whole have regular staff meetings and retreats for information sharing and team-building. Recent division-wide retreats have focused on issues such as change management (“Who Moved My Cheese?”) and a series of customer service videos featuring Seattle’s world-famous Pike Place Fish Market.

CP’s “three-deep” business continuity plan ensures adequate staffing resources by training at least three people to perform all essential job functions. In addition, the program’s “35/5” project allows employees to spend up to five hours per week performing a function other than their normal job duties. Typical 35/5 projects include assisting in another division or TDI work unit, completing a professional certification, or taking training courses. The goal of the 35/5 project is to build team spirit and morale and help prevent job burnout. Although CP has no field offices, the program’s services cover the entire state. The program is piloting a telecommuting project for the agency to determine the viability of allowing staff to work from their homes for one or more days a week. The pilot project will be completed in mid-August.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency’s operations. Maintenance taxes and fees are the two main revenues that fund the agency’s appropriations to regulate the insurance and workers’ compensation industries.

One FTE, the HICAP Coordinator, is funded by the federal Centers for Medicare and Medicaid Services (CMS) via a memorandum of understanding between the Department of Aging and Disability Services (DADS) and TDI.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

There are no other programs that perform the oversight functions of CP’s General Management or SWAT’s support functions. However, several sections within the agency, including Human Resources, Administrative Operations, and Information Technology Services, provide business and resource planning and technology support services similar to or in conjunction with General Management and SWAT.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency’s customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Not applicable.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

This information is provided for each division’s Section VII.J response.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Consumer Protection – Complaints Resolution
Location/Division	William P. Hobby Building, Tower I, 11th Floor
Contact Name	Valerie Brown
Actual Expenditures, FY 2006	\$1,546,889.16
Number of FTEs as of August 31, 2006	37

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Complaints Resolution Division helps consumers resolve complaints against their insurance companies and agents. CP's intervention frequently results in monies returned to consumers in additional claims payments or premium refunds. The division resolves complaints about homeowner claims and auto, life, accident, and health insurance (indemnity plans and preferred provider plans). Because these are the most frequent types of consumer complaints, CP's Complaints Resolution Division resolves the majority of complaints submitted to TDI, or about 87 percent.

Over the last five years, the complaints investigated by CP regarding auto, homeowner, accident, and health insurance mostly involved delays in claims handling, unsatisfactory settlement offers, and claims denials. For the same period, life insurance and annuity complaints primarily involved issues related to delays in policyholder service, misrepresentation, and premium refunds.

Complaints Resolution and other TDI staff assist consumers impacted by disasters or other catastrophes. Staff frequently volunteer to assist consumers at Disaster Recovery Centers (DRCs) established by the Federal Emergency Management Agency in presidentially declared disaster areas. While on disaster duty, staff provide information to help minimize property losses, expedite the insurance claims process by contacting companies on behalf of consumers, help resolve complaints, and identify potential industry and consumer fraud.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Complaints Resolution's effectiveness is best demonstrated by the number of complaints resolved and the dollar amount returned to consumers. In FY 2006, the division resolved more than 24,000 complaints and returned \$56 million to consumers.

To improve CP's efficiency in processing complaints, the program implemented a "paperless" workflow solution in October 2001. Complaints Resolution has vastly improved its complaints resolution time as a result. In June 2007, the average time to resolve complaints was 34 days, which is less than the target of 38 days. A five-year history follows.

1.2.1. Efficiency 1 – Average Response Time (Days) to Complaints					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	82	56	49	34	33
Annual Target	38	38	55	55	38
Percentage of Target	216%	147%	89%	62%	87%
Analysis/Variance Explanation	In FY 2002, CP began the year with a backlog at the same time the program implemented a paperless complaints workflow and responded to two major disasters. As a result, processing time increased. Since then, CP has coordinated efforts to reduce processing time while delivering excellent customer service. These efforts along with the decrease in complaints received have resulted in shorter processing time.				

In March 2007, the State Auditor’s Office (SAO) audited the “Number of complaints resolved” measure. SAO found no errors in the measure calculation and certified the agency’s complaints resolution processes as sound. In addition, SAO commented that TDI’s complaints workflow system was “state of the art” for state government.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Please see history provided in the General Management Section VII.D response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Complaints Resolution affects consumers and the insurance industry. A statistical breakdown is as follows:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Complaints Resolution is administered by the Senior Associate Commissioner for Consumer Protection and the Director of Complaints Resolution. The complaints process flow chart and procedures manual is available for review. Although Complaints Resolution has no field offices, its services cover the entire state.

Complaints Resolution staff focus on claims-related complaints for most insurance lines. The division has two sections, Life, Accident, and Health; and Property and Casualty. Each section has a team leader. Complaints are routed to the appropriate section based on the line of insurance that is the subject of the complaint. Complaints Resolution staff are classified as Administrative Assistants and Insurance Specialists. Each group performs two different sets of tasks.

Administrative staff open, sort, and route incoming complaints to the appropriate section; scan and barcode those that CP will process; forward those that other TDI divisions will process; read the complaints; and then enter them into CIS. Administrative staff generate letters, including acknowledgement letters sent to complainants and requests for information to insurance companies, agents, and other entities.

Insurance Specialists review the complaint and responses from insurers and/or agents, draft appropriate correspondence to complainants and the insurance entities, enter information into CIS, research insurance issues to resolve the complaint, code the complaint as justified or unjustified, and refer potential enforcement matters to TDI's Enforcement Program or the Fraud Unit if warranted. The Director of Complaints Resolution and the Senior Associate Commissioner approve all referrals.

A senior Insurance Specialist audits most complaints before they are closed to make sure the complainant's issues were addressed accurately and thoroughly. The auditor verifies that the specialist entered the proper codes into CIS and then closes the complaint.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

Due to the complexity of insurance products, other TDI areas also resolve consumer complaints. The Property and Casualty Program handles complaints about homeowners insurance rates and title insurance; the Life, Health, and Licensing Program's Health and Workers' Compensation Network Certification and Quality Assurance (HWCN) Division handles HMO and workers' compensation network complaints; and the Division of Workers' Compensation's Complaint Resolution Customer Services section handles most workers' compensation complaints.

No external programs provide an insurance complaint resolution service identical to TDI's. Some specific types of complaints are referred to other agencies, however. For example, complaints from state employees about their health care plans are handled by the Employees Retirement System, and complaints about self-funded insurance plans are handled by the U.S. Department of Labor. The Texas Medical Association has a program physicians may use to complain about insurers and HMOs. Some of these complaints may ultimately be referred to TDI. In addition, all licensed companies are required to maintain consumer complaint records.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Staff follow written procedures and receive training to assure that complaints are handled by the appropriate program area. Two charts, "SORT for Success" and "Overview of Complaints Processing" that include information about TDI program areas and the types of complaints they handle are available for review. All areas handling complaints follow a consistent process established by an agencywide complaint workgroup. The *High Level Complaint Process Framework* and supporting complaint procedures are also available for review.

CP shares complaint information with the following agencies:

- Texas Department of Banking – monthly letter with copies of complaints involving a financial institution, provided per an MOU.
- Federal Office of the Comptroller of the Currency – monthly letter with copies of complaints involving a financial institution, provided per an MOU.
- National Association of Insurance Commissioners (NAIC) – complaint data for the NAIC's national complaints database. Complaint data regarding Medicare supplement policies is sent to NAIC then forwarded by NAIC to the federal Centers for Medicare and Medicaid Services (CMS).

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

CP shares information with federal and state agencies, such as the Texas Department of Banking and the federal Office of the Comptroller of the Currency. To help Texans prepare for and mitigate disasters, the division also works with the Governor's Division of Emergency Management and the Federal Emergency Management Agency.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Why the regulation is needed

Complaint resolution is needed to ensure that consumers receive the benefits of their insurance products, to make certain that the industry abides by state laws, and to promote market competition.

The scope of, and procedures for, inspections or audits of regulated entities

The Texas Insurance Code requires TDI to resolve policyholder complaints and to collect and maintain information about complaints against insurers. All resolved complaints are coded as either justified or unjustified. Justified complaints are expressed as a percentage of the total number of insurance policies written by each insurer. The resulting “complaint index” allows consumers to compare companies’ complaint records. In addition, the Texas Insurance Code creates timelines for prompt payment of first-party claims and certain health care claims.

Follow-up activities conducted when noncompliance is identified

CP refers complaints to TDI’s Fraud Unit or Enforcement program if there is suspected fraud or a pattern of practice of noncompliance with insurance statutes and rules.

Sanctions available to the agency to ensure compliance

Based on a review of complaints, TDI’s Enforcement program may take a variety of administrative actions, ranging from a management conference with a carrier to a formal enforcement action or fine. The Fraud Unit handles allegations of fraud, which may result in referral for criminal prosecution.

Procedures for handling consumer/public complaints against regulated entities

Complaints resolution procedures are described in Section VII.F above. Additional information and flowcharts are available for review.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.

Complaints Resolution is primarily responsible for resolving insurance-related complaints involving claims issues. For FY 2006, the Complaints Resolution Division resolved 24,054 complaints, or approximately 87 percent of all complaints resolved by TDI. The remaining 13 percent were handled in other areas of the agency. The following table shows the distribution of resolved complaints by TDI divisions for fiscal years 2002-2006.

Texas Department of Insurance – Complaints Resolved, FY 2002-FY 2006					
Program/Division	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
CP Complaints Resolution	34,364	41,263	29,480	23,582	24,054
CP Advertising	24	31	25	48	68
DWC Complaint Resolution Customer Services	N/A	N/A	N/A	N/A	N/A
DWC Legal & Enforcement	N/A	N/A	N/A	N/A	N/A
Enforcement	1,364	1,349	1,291	1,160	1,223
LHL HWCN	8,465	6,280	3,622	2,422	1,457
P&C Personal Lines	2,725	2,893	1,144	511	366
P&C Commercial Property	152	211	135	122	91
P&C Title	214	294	326	393	368
P&C Workers' Compensation	115	102	82	82	85
Actuarial	1	0	0	0	0
Total	47,424	52,423	36,105	28,320	27,712

CP Complaints Resolution – Complaints Against Regulated Entities					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Number of files received	45,358*	44,502*	33,951	30,084	30,604
Number of complaints resolved	34,364	41,294	29,505	23,630	24,122
Number of complaints dropped/found to be without merit	0	0	0	0	0
Number of complaints pending from prior years	4,839	8,549	4,196	1,754	1,875
Average time to resolve complaints	82 days	56 days	46 days	33 days	33 days

* Number of complaints received spiked in fiscal years 2002 and 2003 as the results of several factors, including increases in disaster-related complaints, health care provider complaints, and mold complaints.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Consumer Protection – Information Assistance
Location/Division	William P. Hobby Building, Tower I, 11th Floor
Contact Name	John Robinson
Actual Expenditures, FY 2006	\$761,757.40
Number of FTEs as of August 31, 2006	16.1

B. What is the objective of this program or function? Describe the major activities performed under this program.

Consumer Protection's Information Assistance (IA) Division operates TDI's toll-free Consumer Help Line. Insurance Specialists assist callers with insurance questions and concerns Monday through Friday from 8 a.m. to 5 p.m., Central time, excluding holidays when TDI is closed.

Following a catastrophic event, such as a hurricane, extensive flooding, or a large insurer going out of business, IA often extends its hours to better assist consumers. During hurricanes Katrina and Rita in 2005, for instance, IA staff worked 8 a.m. to 7 p.m., seven days a week. These hours corresponded with the Federal Emergency Management Agency's hours of operation at its Disaster Recovery Centers (DRCs). IA staff also frequently volunteer to assist consumers in the field at DRCs.

Calls to the Consumer Help Line cover a variety of topics, including general inquiries, complaints about insurance rates, and claim settlement problems. The most common calls are about auto, homeowners, life, and health insurance.

IA has seven bilingual Insurance Specialists to assist Spanish-speaking customers. IA utilizes Language Line Service to assist callers who speak other languages. Language Line provides a translator who joins the call "real-time" to translate between the caller and the IA Insurance Specialist.

IA staff also respond in writing to consumers who mail or e-mail TDI with insurance inquiries.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

IA performance measure data and management statistics are presented in the following tables. Brief descriptions of process improvements that have enhanced IA's efficiency and effectiveness are also provided.

1.1.1. Output 1 – Number of Inquiries Answered					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Total inquiries	621,565	671,144	938,084	920,436	995,119
• Telephone calls	317,204	281,076	262,231	240,510	251,611
• Written inquiries	1,408	1,285	1,185	1,238	1,419
• Hits to company profiles (PCCI) on TDI's website	302,953	388,789	672,745	678,693	742,089
Annual Target	350,000	350,000	621,565	621,565	1,000,000
Percentage of Target	178%	192%	151%	148%	99.5%
Analysis/Variance Explanation	From FY 2002 – 2005 performance exceeded the target due to the high number of hits to company profiles on TDI's website. The target was increased in FY 2006 to reflect the high number of Internet hits.				

Management Statistics					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Call capture rate	80%	84%	94%	95%	90%
Average length of call (minutes)	3:31	3:12	2:42	2:35	2:38

Prior to 1999, consumers had to call the Consumer Help Line for company profile information. To provide easier access to this information, TDI placed its Practice and Claims Company Inquiry (PCCI) application on the agency's website. Within two years, the monthly average for PCCI Internet hits was 19,619, and the monthly average of incoming calls was 28,095. By fiscal year 2006, PCCI Internet hits were up to 61,841 per month and call volume was reduced to 20,968 calls per month. This allowed CP to reduce its call center staff accordingly.

Bilingual IA staff assist Spanish-speaking consumers. Previously, all non-English calls were handled using interpreters with Language Line Services. The process improvement allows better service to consumers who speak Spanish and has reduced costs associated with vendor fees.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is provided in Consumer Protection's General Management Section VII.D response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Anyone in the United States can dial TDI's toll-free Consumer Help Line. Most callers are from Texas and are insurance consumers or industry representatives. Following is a statistical breakdown of the customers IA affects:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

IA is administered by the Senior Associate Commissioner for Consumer Protection and the Director of Information Assistance. Although IA has no field offices, its services cover the entire state.

To ensure consistent and accurate answers to questions, Insurance Specialists use an information database accessed via TDI's Intranet. TDI.nfo (pronounced TDI Info) includes links to the Texas Insurance Code, agency rules, fact sheets, other online resources, etc. to enhance staff's ability to provide consistent and accurate responses to consumers. Insurance Specialists query TDI.nfo to provide information to callers.

IA staff use the Complaint Inquiry System to provide complaint status to callers. Staff may view documents in the electronic complaint file to answer questions about when an acknowledgement or closing letter was mailed, when the insurer was contacted, and the TDI staff member handling the complaint.

Incoming telephone calls are initially answered through the Octel Voice Information Processing system, the capitol complex system operated by the Department of Information Resources (DIR). Telephone calls are evenly distributed among the staff available to answer calls. DIR provides daily call statistics to IA. IA staff record the type of call answered (auto, homeowner, life, health, etc.) in an Access database. If the caller requests a TDI publication, the insurance specialist enters the order into POP, an electronic publications order system.

Consumer Help Line calls are recorded by a network-based Dictaphone Freedom system. Licensing and Human Resources call centers also use the system to record their calls. In addition, a manager or senior staff member monitors some calls live each day. The manager or senior staff member evaluate an average of eight calls per month per Insurance Specialist. The manager includes these evaluations in Insurance Specialists' annual performance evaluations. The call evaluations also help identify staff training needs.

In December 2004, the Incoming Calls Management Institute (ICMI) and A.C. Nielsen Company of Canada conducted a survey of call center monitoring practices and policies (view the report at <http://www.incoming.com/WebModules/Products/PubDetail.aspx?ProductId=513>). A total of 735 North American call centers participated in the survey. IA's call evaluation practices are in line with the study's major findings:

- The majority of call centers (93 percent) reported monitoring calls.
- The number of calls monitored per person ranged from one a month to 10 or more a month.
- The largest percentage (33.8 percent) of call centers monitored four or five calls per month per person.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

The Licensing Division, Division of Workers Compensation (DWC), and Human Resources (HR) have call centers that perform services similar to IA. Licensing operators assist the more than 300,000 Texas agents and adjusters who have questions about their insurance licenses. The DWC call centers assist injured employees and other workers' compensation system participants. The HR call center is the agency's switchboard and routes calls to staff. IA answers consumers' questions about insurance. TDI has these additional toll-free numbers:

Name	Number	Notes
TDI Main Switchboard	800-578-4677	Staffed during business hours by Human Resources
TDI Job Line	800-952-7099	Recorded message regarding current job information
Arson Hotline – to report suspicious activity	877-434-7345	Staffed 24 hours a day by State Fire Marshal's Office
DWC Complaint Resolution Customer Service Hotline	800-372-7713	Staffed during business hours by DWC
DWC Safety Violations Hotline – to report safety violations	800-452-9595	Staffed during business hours by DWC
DWC TXCOMP Technical Help Line – to get assistance with WC claims, proof of coverage, medical claim electronic data transmission, system access, Approved Doctor List training	888-489-2667	Staffed during business hours by DWC
DWC - Workers' Compensation Injured Employee Hotline	800-252-7031	Staffed during business hours – calls are routed to the closest DWC field office
DWC Workplace Safety - Occupational Health and Safety Hotline– to get information about occupational health and safety	800-687-7080	Staffed during business hours by DWC
Fraud Hotline – report consumer and industry fraud	888-327-8818	Staffed during business hours by Fraud
Help Insure Hotline – for consumers seeking auto and homeowners insurance	866-695-6873	Staffed during business hours by P&C
Independent Review Organization, WC Networks, and URA Hotline	866-554-4926	Staffed during business hours by Health & Workers' Compensation Network
Publications Order Line – to order a publication	800-599-7467	Automated order line
Windstorm Inspections – to request an inspection	800-248-6032	Staffed during business hours by P&C Windstorm

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

CP convened the Phone Transfer Policy Team (PT²), which included call center staff from all TDI divisions, to discuss issues related to the intra-agency transfer of calls. The team met quarterly to coordinate call transfer procedures and to share customer service improvement tips and resources. Agency call center managers currently meet as needed to update training information and share resources.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Not applicable.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Consumer Protection – Public Education
Location/Division	William P. Hobby Building, 333 Tower I, 11th Floor
Contact Name	Richard Lee
Actual Expenditures, FY 2006	\$554,956.12
Number of FTEs as of August 31, 2006	9

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Public Education (PE) Division develops and provides Texas consumers with accurate and timely information, enabling them to make informed decisions about the insurance products they need. Division staff write, edit, and distribute more than 45 consumer publications. PE also coordinates the agency's Speakers Bureau and conducts outreach.

In addition, PE administers a special program for Texas seniors called the Health Information, Counseling, and Advocacy Program (HICAP). PE also coordinates CP's responses to requests for information made in accordance with the Texas Public Information Act. Descriptions of the division's primary activities follow.

Publications

PE and agency staff review publications for accuracy and relevance at least once a year. The review process generally consists of three phases: initial review, team review, and executive review. The team review includes technical and subject-matter experts in appropriate TDI program areas. The executive review includes TDI executive-level staff, the Public Information Office, and the Office of Public Insurance Counsel.

TDI produces rate guides and price comparisons for six types of insurance: auto, homeowners, Medicare supplement, long-term care, workers' compensation, and small employer health plans. Price comparisons and rate guides require data collection from companies. CP's Special Work Assignments Team in coordination with PE collects data for the rate guides. The Workers' Compensation Classification and Premium Calculation Division collects data for and publishes the workers' compensation rate guide.

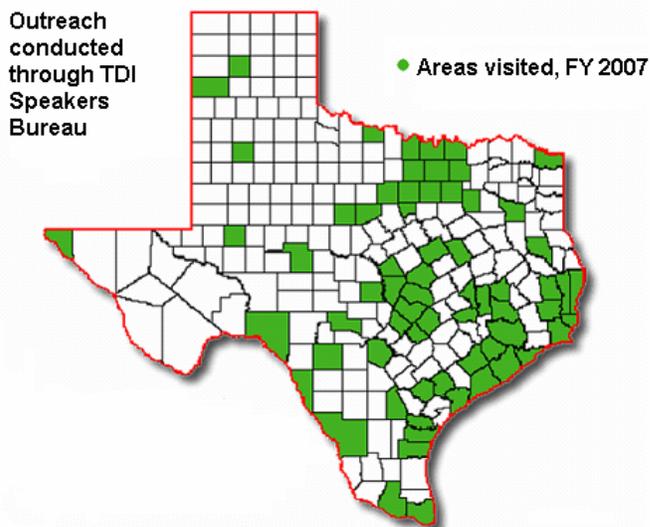
PE staff distribute publications at outreach events and to consumers on request. Consumers may order publications 24 hours a day, seven days a week, by calling CP's automated order line. Consumers may view and download consumer-related information, including publications, from the TDI website. Internet hits to publications count toward the distribution performance measure. In addition to publications, the division maintains several "web resource pages" on insurance topics, such as seniors insurance issues, shopping for insurance, and disaster preparedness. Resource pages and publications may be accessed from the Consumer page on the TDI website, <http://www.tdi.state.tx.us/consumer/index.html>.

Outreach and Speakers Bureau

PE conducts public outreach on request, in partnership with numerous organizations, and to certain "target" audiences. The division provides targeted outreach in response to legislative or regulatory priorities or agency initiatives. In recent years the division has targeted outreach toward:

- senior audiences (the Medicare prescription drug program, insurance fraud, and long-term care insurance)
- Texans in the military (life insurance sales and general insurance)
- parents of uninsured children
- Texans with disabilities
- minority audiences.

Additional information about targeted outreach to Texans in the military and seniors is available for review. Targeted outreach is also conducted in specific areas of the state following disasters or market changes such as company withdrawals, company insolvencies, or policy nonrenewals.



The Speakers Bureau Coordinator processes most requests for speakers from external groups. The appropriate Commissioner's office handles requests for speeches by the Commissioner of Insurance or the Commissioner of Workers' Compensation. The Public Information Office coordinates media requests for interviews with TDI staff. The measure methodology counts media interviews as outreach events.

CP regularly provides information to consumers via mass mail and e-mail. The program maintains mailing lists and e-mail lists of consumer advocacy groups, business and industry groups, state agency contacts, Texas military bases, and public libraries.

HICAP

The Health Information, Counseling, and Advocacy Program, or HICAP, is a federally funded program to assist older Texans. TDI is one of three Texas agencies implementing the program. Other program partners are the Texas Department of Aging and Disabilities Services (DADS) and the Texas Legal Services Center. HICAP provides information about both public benefits and private health insurance. This is accomplished with the cooperation of the 28 Area Agencies on Aging offices (AAAs), which provide one-on-one counseling to assist older and disabled Texans in or near their town of residence.

Management Statistics - HICAP Program					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Number of presentations conducted	33	34	27	38	50
Number of trainings conducted	11	5	10	13	19
Number of Spanish presentations	7	7	7	8	19
Number of Benefits Counselors certified	456	341	349	380	425
Number of senior-related publications distributed	90,132	95,603	98,135	98,138	113,029

Open Records

TDI’s Agency Counsel Division oversees the agency’s open records function. PE staff respond to open records requests for information in consumer complaint files. CP staff receive and enter requests into an automated tracking system; redact information deemed to be confidential by state law, common law standard, and Attorney General opinion; and then provide the information to the requestor. Confidential information is removed from paper documents using a black marker and then photocopied before the files are provided to the requestor. Before releasing the requested information, all documents provided for an open records request are proofread by a staff member who did not perform the original redaction. PE processes a majority of the Open Records requests received by the agency.

Management Statistics - Open Records Requests					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Number of requests processed by PE	603	718	745	530	652
Number of pages redacted	85,454	100,658	110,411	110,758	116,190

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

PE has consistently met performance measures for the past five years.

1.1.1. Output 2 – Number of Rate Guides Distributed					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	652,743	832,112	756,162	861,235	941,074
Annual Target	600,000	600,000	652,743	652,743	652,743
Percentage of Target	109%	137%	116%	132%	144%
Analysis/Variance Explanation	Rate guides are distributed on request through the Consumer Help Line, via partnerships with county Tax Assessor-Collectors, and on TDI’s website. Overall performance has exceeded the target, though demand may fluctuate from year to year.				

1.1.1. Output 3 - Number of Consumer Information Publications Distributed					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	2,216,617	2,763,216	3,343,753	3,079,365	3,579,147
Annual Target	2,000,000	2,000,000	2,200,000	2,200,000	3,200,000
Percentage of Target	111%	138%	152%	140%	112%
Analysis/Variance Explanation	Consumer demand for TDI publications, especially on TDI's website, has increased and the target has been exceeded each year.				

1.1.1. Output 4 - Number of Consumer Information Presentations					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	574	545	561	542	647
Annual Target	500	500	500	500	540
Percentage of Target	115%	109%	112%	108%	120%
Analysis/Variance Explanation	TDI's Speakers Bureau coordinates requests for TDI speakers. Each year performance has exceeded the measure due to the high number of requests and ongoing partnerships with a variety of organizations and agencies.				

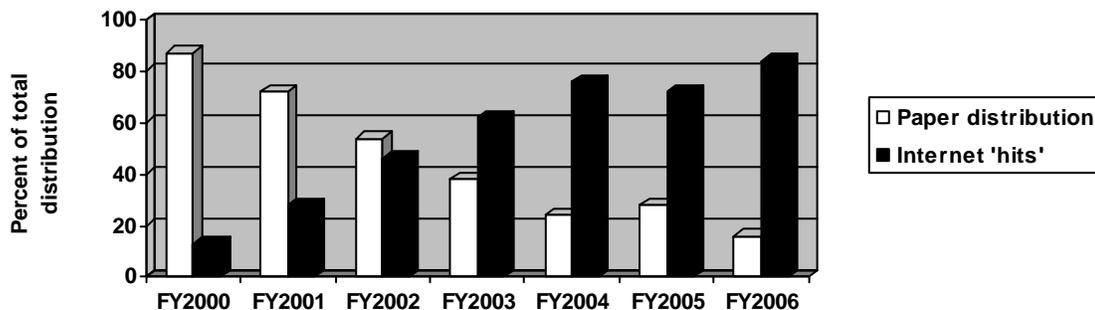
1.1.1. Efficiency 1 – Average Cost per Rate Guide					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	33 cents	19 cents	16 cents	11 cents	10 cents
Annual Target	60 cents	60 cents	50 cents	50 cents	20 cents
Percentage of Target	55%	31%	32%	22%	50%
Analysis/Variance Explanation	The average cost per rate guide is a companion to the "number of rate guides distributed." Due to the high number of rate guides distributed via Internet hits and the low cost to distribute rate guides via TDI's partnership with the county Tax Assessor-Collectors offices, the cost per rate guide has decreased year to year.				

In addition, the Public Education section has received numerous awards since 2000:

- The Consumer Federation of America rated the quality and quantity of consumer information provided by TDI among the best in the nation (2000). TDI was one of only seven states receiving an "A" grade.
- The Centers for Medicare and Medicaid Services (CMS) recognized the HICAP program with a national award for its outstanding work in public outreach (2000).
- The HICAP program earned certificates of appreciation for its work with Texas seniors and retirees from the Department of Defense (2000); the Area Agency on Aging (AAA) of the Golden Crescent (2000); CMS (2001); the Texas Medical Foundation (2003 and 2005); and CMS Region VI Office (2006).
- The Middle Rio Grande AAA presented its Together We Can award to the HICAP program for outstanding support to Texas seniors (2003).

- CP’s consumer outreach efforts have earned certificates of appreciation from the Governor’s Department of Emergency Management for assisting consumers following disasters (2001 and 2004); the City of Austin (2004, 2005, and 2006); the Austin Police Department (2005); Fort Sam Houston for outreach to Texans in the military (2005 and 2006); Fort Hood for outreach to Texans in the military (2005 and 2006); the American Heart Association (2005 and 2006); and the Association of Texas Tax Collector-Assessors for our cooperative program to provide information and assistance to Texas consumers (2006 and 2007).

**Publication Distribution - Paper Distribution vs. Internet Hits
FY 2000 - FY 2006**



Other evidence of efficiency includes increased hits to TDI’s website for educational and outreach information. Hits to publications on the agency’s website are the key drivers to successfully achieving three of PE’s four performance measures: publications distributed, rate guides distributed, and average cost of a rate guide.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is provided in Consumer Protection’s General Management Section VII.D response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

PE staff provide information to the public. The division conducts special outreach programs to senior Texans, Texans with disabilities, Texans in the military, minority Texans, and parents of uninsured children. Following is a statistical breakdown:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Public Education is administered by the Senior Associate Commissioner for Consumer Protection and the Director of Public Education. The procedures manual is available for review. Although PE has no field offices, its services cover the entire state.

The division has nine FTEs. Primary job functions are broken down as follows: program management (one), consumer outreach (three), HICAP (one), publication writing and editing (one), and open records (three). In addition to their primary job functions, staff also assist with disaster outreach, publication distribution, coordination of the agency's Speakers Bureau, legislative bill review and analysis, and special projects.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

The HICAP program is funded by a grant from the Centers for Medicare and Medicaid Services (CMS) to the Department of Aging and Disabilities Services (DADS). DADS contracts with TDI via an interagency contract.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

TDI's PIO section also provides information to the public, although its focus is primarily on the media rather than to consumers and the general public.

The State Fire Marshal's Office (SFMO) conducts outreach and produces various publications. SFMO's function is primarily to work with local firefighting units.

TDI's Division of Workers' Compensation conducts outreach for employers regarding workplace health and safety and return to work.

The Office of the Public Insurance Counsel (OPIC) publishes some consumer information on its website. OPIC is statutorily required to publish a "Report Card" on Texas HMOs.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

A rider to the General Appropriations Act, 2006-2007, requires TDI to contract with OPIC to provide consumer information. As a result, OPIC participates in the review process for TDI consumer publications, helps develop certain outreach strategies, and assists with disaster outreach.

SFMO publications and outreach are targeted at fire prevention and other fire awareness topics, and are counted in separate performance measures. There is no duplication of effort with PE.

CP's HICAP Coordinator position is funded by a grant from CMS through an interagency contract with DADS. The HICAP coordinator provides targeted outreach to Texas seniors in partnership with DADS and other CMS grant recipients. To avoid duplication of efforts, the agreement specifies the activities and deliverables to be accomplished by the HICAP Coordinator.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

PE works with the following agencies and governmental units:

- Tax Assessor-Collector offices in most Texas counties: Distribute auto and homeowner price comparisons and other publications in county offices.
- Texas Workforce Commission (TWC): CP exhibits at TWC's Texas Business Conference.
- Texas Department of Aging and Disability Services (DADS): CP's HICAP program is funded through an interagency contract with DADS.
- Area Agencies on Aging (AAA): CP trains benefits counselors, provides insurance information, and provides other support for the 28 AAAs in Texas.
- Texas Health and Human Services Commission (HHSC): TDI is a partner with HHSC and other entities in the Long-Term Care Partnership to provide information and training about long-term care insurance.
- Austin Police Department and Travis County Sheriff's Office: Distribute auto and homeowner insurance information at outreach events held in towns throughout Central Texas.
- Capital Area Metropolitan Planning Organization: Distribute insurance information at Capitol Metro fairs in the Austin metropolitan area.
- Other state agencies: Distribute information at summer health insurance enrollment fairs.
- Austin Children's Hospital and Seton Healthcare network: PE exhibits at mobile health van events for uninsured schoolchildren in the Austin area.
- Travis County Health and Human Services Department: Distribute information to uninsured residents via a mobile health van.
- Financial Literacy Coalition of Central Texas: Distribute insurance-related information to Texans.
- Texas public libraries: Distribute insurance-related information and publications via mass mailings.
- Texas military bases: Distribute information and publications regarding insurance issues pertinent to service members via mass mailings and outreach events.
- City, county, emergency management, and elected officials' offices: Distribute information and publications regarding assistance with insurance questions and claims during a disaster response.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Consumer Protection – Advertising Unit
Location/Division	William P. Hobby Building, Tower I, 11th Floor
Contact Name	Jack Evins
Actual Expenditures, FY 2006	\$284,584.34
Number of FTEs as of August 31, 2006	6

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Advertising Unit protects the public and promotes accuracy in advertising by reviewing insurance advertisements. In general, an “advertisement” is any prepared communication intended to promote name identification of a licensee or to generate interest in insurance or other regulated products. Staff review insurance ads to ensure that they are compliant with the law and agency rules and to detect possible fraud and unauthorized activities. Additionally, the Advertising Unit proactively selects insurance industry websites for review. These reviews ensure that companies are not inappropriately using unfiled required ads on their websites and also help detect potentially false and misleading statements. Approximately 24 percent of the ads reviewed in FY 2006 were proactively reviewed Internet ads.

The Advertising Unit monitors marketing trends to identify potential “scams.” It helps create and maintain a level playing field in the industry, thus promoting fair competition.

The Advertising Unit receives a small number of complaints annually (68 complaints closed in FY 2006). Most complaints are submitted by carriers or agents questioning the compliance of a competitor’s advertisements; less frequently, consumers complain of advertising they believe to be false or deceptive.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Advertising Unit has exceeded its performance measure for the past five years.

1.2.1. Output 2 - Number of Insurance Advertising Filings Reviewed					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	6,028	6,160	6,400	6,065	6,062
• Required ads	3,659	2,986	4,332	3,612	2,997
• Non-required ads	2,369	3,174	2,068	2,453	3,065
Annual Target	6,000	6,000	6,000	6,000	6,000
Percentage of Target	100.5%	102.67%	106.67%	101.08%	101.03%
Analysis/Variance Explanation	N/A				

Management Statistics					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Number of forms with compliance issues (objections)	3,773	3,415	3,575	3,415	4,142
Average time (in days) to review advertising					
• Required ads	24.81	27.09	29.18	20.75	24.30
• Nonrequired ads	20.29	19.33	10.45	24.49	23.27
• Total	23.14	24.64	20.11	22.23	23.80
Number of companies submitting ads					
• Required ads	101	89	89	82	71
• Nonrequired ads	151	121	84	41	32
• Total	252	210	173	123	103
Number of files referred to Enforcement	6	7	4	10	10

Required = Ads that are required to be filed with TDI before they may be used.

Nonrequired = Ads that are not required to be filed with TDI before they may be used.

Some violations detected by the Advertising Unit have resulted in consent orders and fines paid by insurers and agents. In addition, the unit has provided information to the Office of the Texas Attorney General (OAG) to support cases that led to cease and desist orders against deceptively marketed discount health care programs.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is provided in Consumer Protection's General Management Section VII.D response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Advertising regulation affects the insurance industry and consumers. Statistical breakdown is as follows:

- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses
- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas).

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Advertising Unit is administered by the Senior Associate Commissioner for Consumer Protection and the Director of Advertising. The Advertising Review Flow Chart is available for review. The unit has no field offices, but its services cover the entire state. Following is a summary of the advertising review process:

- Each piece of advertising is date-stamped and logged into an Oracle database tracking system, which assigns a Filing ID number to each submission.
- An Insurance Specialist reads the advertisement for content; context; prominence and position of required disclosures; omissions of required information; and violations of statutes, regulations, policy provisions, and licensing requirements. To help insurers, these requirements are summarized in detailed guidelines in the “Advertising Workbook” for the industry and available at <http://www.tdi.state.tx.us/consumer/documents/advworkbook04.doc>.
- The specialist may review the outline of coverage or policy form to compare the contractual benefits to the advertising language. Because most insurance policy forms are imaged, a specialist can usually query the policy form tracking systems (PATK and TRACK) and view the form online from the computer desktop.
- If no problems are found with the advertisement, the specialist sends a letter to the submitter by e-mail or fax, if possible, or otherwise by mail, noting the findings.
- If the specialist identifies a problem with the advertisement, he or she prepares a detailed letter with reasons for objections to specific content and citations to the TAC or the TIC. The specialist e-mails or faxes the letter to the submitter, if possible, or otherwise mails it. If an advertisement raises more serious or complex issues, the specialist may request additional information or, if the ad is in circulation, request that the company or agent voluntarily discontinue the ad.
- During the course of a review, a specialist may consult with staff in the Life, Health, and Licensing; Property and Casualty; Legal Services; or Enforcement programs to complete the review.
- The Advertising Director or a senior Insurance Specialist reviews each completed ad review. The auditor reviews the specialist’s findings, reads the correspondence for clarity and accuracy, and follows up with staff as necessary.
- If staff determine an ad should be referred to Enforcement or Fraud, the staff member drafts a referral, which is approved by the Advertising Director and Senior Associate Commissioner.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency’s operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers’ compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

TDI has no identical function to the Advertising Unit’s reviews. TDI Market Conduct examiners may identify noncompliant advertising; however, they would generally be looking at advertising in use, rather than material proposed for use. The form approval function conducted by Life, Health, and Licensing and Property and Casualty is similar to the advertising review function. Advertising interacts with Enforcement regarding cases opened from referrals. Occasionally, advertising issues arise on cases initially referred from other programs, and Enforcement or Fraud requests the Advertising Unit to review ads in question.

In late 2007, the Interstate Compact Insurance Regulation Commission may provide a centralized filing and review option for long-term care insurers in participating states (including Texas). Ads that pass the

Commission's review will not need to be filed for prior review in Texas. The National Association of Securities Dealers (NASD) has jurisdiction over prospectuses promoting variable annuity products. The OAG also may take action regarding material that violates the Deceptive Trade Practices Act (Business and Commerce Code, Chapter 17). The federal Centers for Medicare and Medicaid Services reviews Medicare Advantage products.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Advertising participates in an MOU between TDI, the Texas Funeral Services Commission, and the Texas Department of Banking regarding prepaid funeral service contracts. Life, Health, and Licensing staff coordinate the MOU, and the agency participants meet annually.

Advertising; Life, Health, and Licensing; and Property and Casualty staff interact regularly to coordinate reviews of policy forms, endorsements, outlines of coverage, and advertisements.

When Advertising staff identify apparent patterns of violation or unauthorized activities, they interact with the Legal Services, Enforcement, and Fraud programs, and with the OAG.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Advertising Unit works with the following agencies:

- CMS regarding Medicare-related products
- the OAG regarding lead card advertising and discount health care services programs
- State Securities Board regarding the sale of variable annuities
- Texas Funeral Services Commission and Texas Department of Banking regarding prepaid funeral services contracts.

The principal nature of these dealings is exchange of information. This may include referrals of complaints from one agency to another, as appropriate.

The Advertising Unit also interacts with staff in other state departments of insurance to compare advertising review requirements.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

In late 2006, TDI hosted meetings of the Advertising Workgroup. The group, which included industry representatives and the Office of Public Insurance Counsel, discussed opportunities to improve advertising regulation. Many recommendations were contained in HB 2251 and HB 2252 enacted by the 80th Legislature.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Why the regulation is needed

Regulation of insurance advertising promotes competition and protects consumers. In addition, federal law mandates that states require Medicare supplement insurance ads to be filed for review or approval.

TDI rules require advertising for long-term care insurance and viatical and life settlements to be filed for review. These requirements are imposed to monitor the marketing of complex products and to protect particularly vulnerable consumers.

The scope of, and procedures for, inspections or audits of regulated entities

All advertising is subject to basic requirements, per Texas Insurance Code, Chapter 541, and Texas Administrative Code, Chapter 21. TDI rules establish additional requirements for health and accident insurance, Medicare supplement insurance, Medicare cost HMOs, long-term care insurance, life and annuity advertising, and viatical and life settlement ads.

Advertising staff must complete reviews of Medicare supplement, Medicare cost, and long-term care insurance advertising before the applicable deadline. If an advertising review is not completed before the deadline, the carrier may consider the ad to be “deemed” acceptable.

Advertising staff review websites of insurers with significant market shares in personal lines of insurance and those with ads that are the subject of a complaint. Occasionally, another TDI program may request that a carrier submit all of a certain class of “nonrequired” advertising to TDI for review.

Follow-up activities conducted when noncompliance is identified

In reviews of advertising filed prior to use, staff prepare and send a letter with reasons for objections and citations to the law and agency rules. The responsible party would then have to make modifications and resubmit the ad to receive a “no objection” letter indicating that the material is acceptable.

In reviews of noncompliant advertising already in use, staff will again send the responsible party a detailed letter noting objections and require the responsible party to confirm its remedial actions within a reasonable time frame.

An ad may be referred to TDI’s Fraud or Enforcement program if:

- staff detect possible fraud or evidence of actual damages to consumers or competitors
- the party responsible commits a pattern of violations
- the party responsible fails to remedy noncompliant advertising.

Sanctions available to the agency to ensure compliance

The administrative penalties available under Texas Insurance Code, Chapter 84, may be applied to entities regulated by TDI. Cease and desist orders may also be applied, particularly when an unauthorized activity is involved. These actions are pursued by TDI’s Enforcement program.

Procedures for handling consumer/public complaints against regulated entities

Complaints about insurance advertising will result in a review of the ad. An acknowledgment of receipt of the complaint is sent to the complainant. A closing letter is also sent to the complainant summarizing the results of the review, including whether violations were noted and, if so, what actions were taken.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.

The Advertising Unit resolved 68 complaints during FY 2006, as noted in the CP Complaint Resolution Section VII.O agency complaint resolution table.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Enforcement Program
Location/Division	William P. Hobby Building, Tower I, 10th Floor
Contact Name	Catherine Reyer
Actual Expenditures, FY 2006	\$2,347,560.98
Number of FTEs as of August 31, 2006	50

B. What is the objective of this program or function? Describe the major activities performed under this program.

Enforcement's primary objective is to encourage fair competition in the insurance industry by reducing unfair and illegal practices. To meet this objective, Enforcement investigates allegations of illegal activities by insurance agents, insurance companies, HMOs, and other licensed entities and brings disciplinary actions that may result in:

- cease-and-desist orders
- license denials
- license revocations and suspensions
- monitored agent probations
- administrative penalties
- restitution.

Enforcement refers cases to the Fraud Unit for criminal prosecution and assists appropriate prosecutors in criminal prosecutions. Enforcement works with the Office of the Attorney General (OAG) on appeals of disciplinary actions and on enforcement actions conducted by the OAG's Consumer Protection Division.

Enforcement's Compliance Intake Unit provides data and file management and public assistance telephone support to the program. The section also is responsible for analyzing and referring complaints and reports to the appropriate areas within TDI.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Enforcement Program's effectiveness is best demonstrated by the number of enforcement actions concluded, penalties fined, and restitution assessed. The tables below demonstrate Enforcement's success at meeting annual performance measure targets for the past five fiscal years (FY).

1.2.2 output 1 – Number of enforcement actions concluded					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	332	352	457	417	364
Annual Target	295	295	300	300	350
Percentage of Target	112.54%	119.32%	152.33%	139%	104%
Analysis/Variance Explanation	Enforcement consistently meets the target for this measure.				

1.2.2 output 2 – Dollar amount of penalties assessed for unfair and illegal practices					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	\$26,256,925	\$14,709,197	\$8,344,761	\$12,744,166	\$8,690,433
Annual Target	\$1,250,000	\$1,250,000	\$1,350,000	\$1,350,000	\$2,750,000
Percentage of Target	2100.55%	1176.74%	618.13%	944.01%	316.02%
Analysis/Variance Explanation	Enforcement consistently meets the target for this measure.				

1.2.2 output 3 – Dollar amount of restitution assessed for unfair and illegal practices					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	\$55,158,846	\$18,476,341	\$29,844,650	\$18,031,974	\$18,224,109
Annual Target	\$2,500,000	\$2,500,000	\$10,500,000	\$10,500,000	\$10,500,000
Percentage of Target	2206.35%	739.05%	284.33%	171.73%	173.56%
Analysis/Variance Explanation	Enforcement consistently meets the target for this measure.				

Enforcement's effectiveness is also reflected by the combination of explicit agreements for compliance with statutes and regulations, payment of restitution to those harmed by past behavior, and payment of monetary penalties to the general revenue fund as documented by orders issued to regulated entities. In FY 2006, Enforcement collected approximately \$5.8 million in general revenue fund penalties, which is more than the program's fiscal year budget.

Additionally, following House Bill 7 merger, TDI's Enforcement Program assisted the Division of Workers' Compensation (DWC) with reducing the backlog of medical dispute resolution cases. As a result of Enforcement's efforts, the number of cases docketed for hearings with the State Office of Administrative Hearings (SOAH) decreased from 3,919 to 1,877. DWC has continued to work on the backlog and as of August 2007, only 1,632 cases remain.

Specific enforcement actions highlighting the program's performance for FY 2006 are presented below.

- Issued a cease and desist order and assessed a \$1 million penalty against Employers Resource Management for engaging in the business of insurance without proper authorization and engaging in deceptive acts by making misrepresentations about its health benefits plan.
- Assessed a \$4 million penalty against United Healthcare Insurance Company for violating the insurance laws relating to compliance with Texas prompt payment statutes and rules.
- Participated in a multi-state regulatory settlement agreement in and between American-Amicable Life Insurance Company of Texas that resulted in more than \$10.7 million in restitution for Texas consumers. Allegations included misrepresentation and violation of insurance or consumer protection statutes in the marketing and sale of Horizon Life to members of the United States military.
- Ordered Melvin Dean Marshall to pay restitution of approximately \$2.6 million. Mr. Marshall was found to have participated in and benefited from dishonest and deceptive practices in the business of insurance, resulting in financial losses to retired elderly people.
- Required Unum Life Insurance Company of America to pay approximately \$8.6 million in restitution for improper claims settlement practices in individual and group long-term disability income insurance policies.
- Following a contested case hearing at SOAH, the Commissioner issued an order requiring Allstate Texas Lloyd to reduce its homeowners insurance rates by 5 percent and to pay restitution to policyholders in an amount estimated to be more than \$57 million.

Other specific examples that demonstrate the impact of the Enforcement program on the market include the following. In 2000-2001, TDI experienced a sharp increase in complaints regarding unauthorized

health insurance plans. In response, Enforcement created an unauthorized insurance team to deal solely with unauthorized insurance issues. During 2003, Enforcement entered over 100 orders against agents involved in selling unauthorized insurance. By 2005, the incidents reported to TDI of agents participating in unauthorized insurance schemes fell so low that the unauthorized insurance team was disbanded. Enforcement staff have since learned that individuals involved in unauthorized insurance operations have specifically refrained from doing business in Texas due to the enforcement efforts of TDI.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

1997 - The Enforcement Section of the Legal and Compliance Program of TDI was created as a result of the merger of the Agent Enforcement and Market Activities sections. Attorneys from the State Fire Marshal’s Office joined Enforcement when the Fire Marshal enforcement function was delegated to the Legal and Compliance Division.

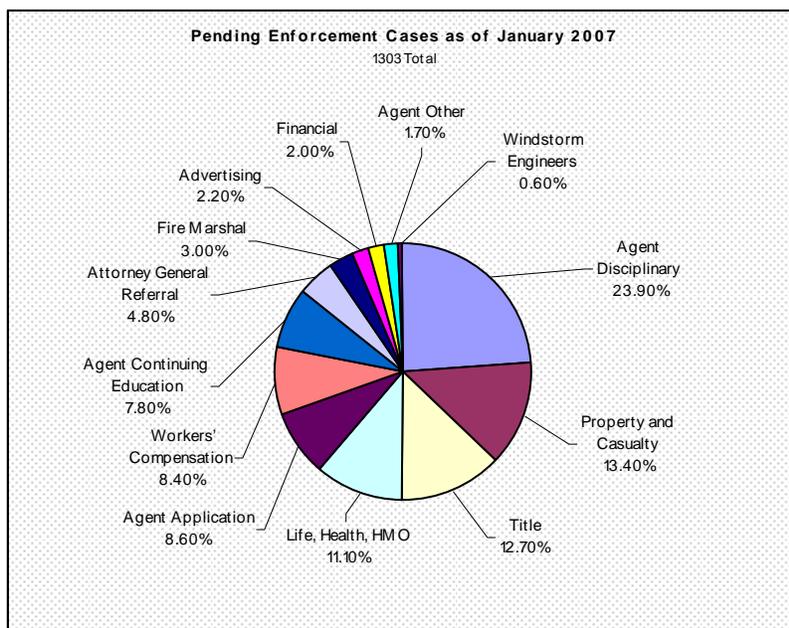
2006 - The enforcement portion of the Legal and Compliance Program was split into a separate program, which also included the Compliance Intake Unit.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Enforcement primarily impacts individuals and entities regulated by TDI. The program also affects TDI programs and the public. The statistical breakdowns are as follows:

- Companies = 2,437 insurers/various other insurance-related entities as of December 31, 2006
- Agents and adjusters = 347,830 total active licenses as of August 31, 2006
- Agency staff = 1,627.1 as of August 31, 2006
- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas).

The vast majority of cases handled by Enforcement involve individuals and entities regulated by TDI, as illustrated below.



F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Enforcement Program is administered by an Associate Commissioner and consists of investigators, attorneys, and administrative staff. Enforcement processes involve opening cases, investigating cases, pursuing orders in appropriate cases, issuing orders, and tracking compliance with orders. Enforcement's Compliance Intake Unit is responsible for setting up cases in the complaint tracking system and routing cases, complaints, and reports to the appropriate area. Flowcharts of Enforcement's processes are available for review.

Enforcement has four subject matter teams. Generally, each attorney and investigator are assigned to more than one team.

- Licensing (dealing with Agent issues)
- Property and Casualty/Windstorm/Fire Marshal
- Rates/Title/Financial
- Health/HMO/Life/Workers' Compensation Networks

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

Internal Programs

The Legal Services Program of TDI provides legal advice, interpretation, and non-litigation support services to the agency. Enforcement relies on Legal Services for these support services and communicates through both regularly scheduled meetings and ad hoc interaction as specific cases demand.

DWC's Legal Services Section provides legal advice, interpretation and support services to DWC. TDI's Enforcement Program and DWC's Legal Services regularly communicate regarding disciplinary actions to ensure consistency across the agency.

The General Counsel/Chief Clerk of TDI provides legal counsel to the Commissioner. It is especially important that this function remain separate and distinct from Enforcement as the Commissioner is prohibited from discussing the substance of contested cases with any party, including Enforcement staff (see Texas Government Code, Section 2001.061). Enforcement and the General Counsel work together to establish and maintain procedures in contested cases.

Many enforcement cases involve allegations of activities that, if proven, would provide the basis for criminal prosecution. TDI's Fraud Unit investigates and prepares these cases for referral to various district attorneys around the state. Due to the need to take appropriate action against regulated entities, and since the nature of the available sanctions are different, companion cases often run simultaneously in

both Enforcement and the Fraud Unit. Enforcement meets and communicates regularly with representatives of the Fraud Unit through both regularly scheduled meetings and ad hoc communications on specific cases to ensure coordination of efforts and sharing of information where possible.

External Agencies

TDI works daily with SOAH. Per Texas Insurance Code, Chapter 40 and Texas Government Code, Chapters 2001 and 2003, SOAH conducts contested case proceedings for TDI including issuance of proposals for decision which contain recommendations to the Commissioner.

Pursuant to Texas Business and Commerce Code, Section 1747, the OAG has authority to pursue deceptive trade practices cases against insurers. This overlaps with the authority of TDI under the Texas Insurance Code. Since insurance agents and entities may not do business in Texas without authorization from TDI, the function of regulating deceptive trade practices by regulated entities is appropriately given to TDI.

TDI shares regulation of certain types of health plans with the United States Department of Labor (DOL). Both agencies regulate self-funded multiple employer welfare arrangements (MEWAs). However, the DOL focuses on breaches of fiduciary duty, while TDI focuses on MEWA licensure and regulation under Texas Insurance Code, Chapter 846.

TDI regulates Qualified Inspectors (QI) who perform building inspections to determine whether buildings or structures are eligible for windstorm and hail insurance through the Texas Windstorm Insurance Association (TWIA). TDI reports actions taken against QI who are also licensed engineers regulated by the Board of Engineers (BOE). TDI also verifies the engineer's license status through the BOE.

The State Securities Board (SSB) oversees the registration of security dealers/agents and securities in Texas. The SSB and TDI's Enforcement Program share information about the inappropriate sale of securities as many Texas agents also sell investment products to clients. Although the sale of securities is not the business of insurance, Enforcement may initiate disciplinary action against a licensed agent who engages in the sale of registered or unregistered securities but fails to register as a security dealer.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TDI meets and otherwise communicates with various other programs within the agency in order to coordinate efforts. These meetings plus the exchange of biweekly reports among programs ensure that each area remains informed about one another's activities. The programs understand the scope of their regulatory authority. When issues are incorrectly directed to a program, they are promptly routed to the appropriate area for handling.

Enforcement staff meet regularly with the Travis County District Attorney's Office to discuss pending cases involving respondents/defendants who are or who have been the subject of both criminal investigation through that office and civil administrative action through TDI Enforcement. Enforcement staff also participate in several National Association of Insurance Commissioners (NAIC) working groups that communicate regularly via national meetings and e-mail correspondence. The Department of Labor also participates in these NAIC working groups. Enforcement staff communicate regularly with the OAG about pending issues affecting both agencies. Similar contacts and communications occur with the SSB and BOE.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Enforcement regularly shares information with and receives information from the following entities regarding individuals and entities of common interest:

- Texas State Securities Board
- Texas Real Estate Commission
- Texas Education Agency
- Texas Work Force Commission
- Texas Comptroller of Public Accounts
- Texas Secretary of State
- Texas Department of Licensing and Regulation
- Texas Department of Finance
- Texas Department of Banking
- Texas Board of Chiropractic Examiners
- Texas Department of Public Safety
- Texas Department of Transportation
- Texas Windstorm Insurance Association
- Texas Fair Access to Insurance Requirements Plan Association
- Texas Automobile Insurance Plan Association
- Surplus Lines Stamping Office
- Special Deputy Receivers Appointed by TDI Commissioner.

Enforcement also provides information regarding activities by licensees that may involve violation of federal statutes to the following agencies:

- United States Securities and Exchange Commission
- United States Department of Homeland Security
- Federal Bureau of Investigation
- United States Attorney
- United States Secret Service
- United States Department of Labor
- Internal Revenue Service - Criminal Intelligence Division
- United States Postal Inspection Service.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2006;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

<p>L. What statutory changes could be made to assist this program in performing its functions? Explain.</p>
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For the most part, the Texas Insurance Code does adequately reflect the agency's mission and powers. However, Enforcement believes there is room for improvement in the statutes giving the agency the power to carry out its mission. For instance:

- A recommendation included in the agency's biennial report to the 80th Legislature is to adopt the NAIC model regulation to prevent unauthorized health insurance. This model would make clear a number of issues where unauthorized plans have tried in the past to exploit the current ambiguity.
- Another recommendation included in the biennial report was to clarify the "independently procured" exemption from TDI regulation in order to prevent inappropriate circumvention of Texas insurance regulations. Specifically, Enforcement is concerned about the use of the exemption by unauthorized insurers selling to Texas domiciled individuals and businesses and does not believe that the exemption was intended to be utilized in such circumstances.
- An issue not included in the biennial report has to do with the regulation of life and health insurance. Currently, TDI's ability to require licensure of insurance companies clearly doing business in the state is very limited in cases of group policies. Specifically, §101.053 (b)(5) provides that a transaction involving a group life or health insurance policy issued outside of the state which was authorized in that other state is not considered the business of insurance in Texas. While this is appropriate in the context of single employer group health insurance, this exemption is also utilized in other, arguably inappropriate, contexts. For instance, this would appear to apply to situations where a group health insurance or annuity policy is issued to a "consumer association" in another state. While TDI might be able to order the carrier to comply with Texas law as to the content of the certificates issued here, such regulation has little force without the threat of the revocation of licensure.
- Currently, insurance companies often return unearned premium to the insurance agent when a policy cancels, to be returned to the consumer. TDI has seen a number of examples of agents misappropriating the funds in these circumstances. TDI suggests that carriers be required to return unearned premium directly to the policyholder.
- Similarly, TDI has observed misappropriation of funds when premium finance companies send premium finance agreement funds to the agent to be forwarded to the carrier. Again, TDI suggests that the premium finance company be required to forward the premium directly to the carrier so as to avoid the opportunity for fraud.
- TDI has investigated a large number of cases of consumer harm in the sale of insurance products where agent commission is paid up front and where the commission is paid one time for a product, like an annuity, which is generally a multi-year product. TDI has also revoked a number of agent licenses in circumstances where the agent received large up front commissions and then refused to return them when the policy was cancelled. In other cases, agents have created large numbers of false applications in order to benefit from the initial commissions paid. Currently, pursuant to federal law, carriers are required to pay renewal commissions on Medicare supplement products, and the first year commissions may not be more than 200 percent of the renewal commission. (28 TAC § 3.3317). Enforcement suggests revising state law regarding commissions to be more comparable to the Medicare supplement model.

- Enforcement suggests that an update to section 4005.101(b) is needed, right after section 4005.101(b)(8), in order to include guilty pleas in criminal prosecutions which result in deferred adjudication probation orders. This is similar to how deferred adjudication orders are considered in the state bar rules which apply to licensed attorneys. The relevant conduct is identical whether the conduct results in either "conviction" or "deferred adjudication". Since license prosecution and license denial actions at TDI/SOAH are civil proceedings, the relevant conduct is the admission by a party opponent (Guilty plea, *Texas Rules of Evidence section 801(e)(2)(A)*). Guilty pleas and other admissions contained within deferred adjudication probation orders constitute civil admissions which are relevant and admissible within civil cases. The current limitation to only criminal "convictions" was passed prior to the creation of the current deferred adjudication process in criminal cases.
- Section 411.081 of the Government Code provides a lengthy list of state agencies permitted to have access to certain criminal history records but excludes TDI. Enforcement suggests that access to such records is necessary to making appropriate licensing decisions.
- Chapter 541 of the Insurance Code deals with unfair methods of competition or deceptive acts. Staff suggests that ambiguities need to be clarified in that Chapter. For instance, §541.004 provides that an action under that chapter in which TDI is a party must be brought in a district court in Travis County. This does not seem to take into account the ability of the department to bring an administrative action before the State Office of Administrative Hearings (though §541.207 provides that the remedies found in the chapter are not exclusive). Similarly, §541.110 provides for very limited administrative penalties under the Chapter and only for violations of an administrative cease and desist order. Because there are no direct penalty provisions, Enforcement must rely on the general penalty provisions of Chapters 82 and 84. Enforcement recommends deleting Subchapter C of Chapter 541.
- The Amusement Ride Safety Inspection and Insurance Act (Act), Texas Occupations Code, Chapter 2151, gives TDI regulatory authority, along with 28 TAC, §§ 5.9001-5.9014. The Act, however, failed to give TDI any enforcement authority other than to refer non-compliant operators to either local, county, state law enforcement and/or the OAG. Enforcement suggests that the act should be amended to give TDI some enforcement tools such as to revoke permits, levy fines and to issue immediate cease and desist orders to shut down illegal operators. Additionally, the safety inspectors employed by insurers are currently not certified or regulated by any governmental entity. Enforcement suggests that safety inspectors at least be registered with the Texas Department of Licensing and Regulation.
- In Attorney General Opinion No. GA-0064, the AG found that §53.021(b) of the Occupations Code provides that a license is revoked by operation of law upon incarceration for a felony. Enforcement suggests that, if this is the law, the Insurance Code should reflect it.
- Section 101.354 provides that, before an unauthorized entity can file a pleading in an administrative case, they must file cash or a bond in an amount sufficient to pay any final order that may be entered. However, the section states that this only applies "if required by statute." This appears to require another statute in order to make this provision effective, and there does not appear to be such other statute. Thus, either this section should be eliminated, or it should be amended to remove the phrase "if required by statute."

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

TDI licenses individuals and entities within the insurance industry. Enforcement handles cases once non-compliance is identified. Many cases are closed once compliance has been obtained and the violation rectified. Other cases proceed to a negotiated settlement through a consent order. Where settlement is not possible, a contested case hearing is held, which results in a proposal for decision by a SOAH judge to the Commissioner, who then issues a final order. Consent and contested case orders may contain provisions for the payment of penalties and/or restitution. They also can contain provisions for probation, suspension, and revocation of the authorization issued by TDI.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

MEASURE DESCRIPTION	FY 2005	FY 2006
Complaints Transferred to CIU	751	1,485
Complaints Resolved by CIU	1,160	1,222
Unjustified CIU Complaints	242	170
Average Response Time to Complete CIU Complaints	9 days	12 days
Enforcement Cases Opened	809	959
Enforcement Cases Closed	804	812
Enforcement Actions Concluded	417	364
Contested Cases Closed	268	236
Contested Cases Finalized within 180 days	74%	74%
Penalties Assessed for Unfair and Illegal Practices	\$12,727,166	\$8,671,183
Restitution Assessed for Unfair and Illegal Practices	\$17,725,119	\$16,722,399
Restitution Collected Without an Order	\$345,194	\$1,812,342

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Financial Program – General Management
Location/Division	William P. Hobby Building, Tower III, 5th Floor
Contact Name	Danny Saenz, CFE, Associate Commissioner
Actual Expenditures, FY 2006	\$438,402.77
Number of FTEs as of August 31, 2006	6

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Financial Program is the primary solvency guardian of the Texas insurance industry. Financial enforces solvency standards for insurance companies and related entities from the initial formation and licensure through subsequent surveillance activities to implementing regulatory interventions, as necessary. The Program's goal is to detect financial or hazardous concerns and take prompt action by applying available statutes, rules, and procedures to prevent solvency and consumer problems. Financial seeks to rehabilitate companies that fall short of solvency standards, and through a court-sanctioned receivership process, liquidate the few companies that cannot be rehabilitated.

Financial seeks to promote a fair, healthy and competitive market and protect policyholders by ensuring that insurance companies writing business in Texas maintain solvency requirements, by identifying suspected fraud, misrepresentation, and unfair practices.

The program's over-arching objective is to ensure that insurance companies are financially capable of paying claims to policyholders. Financial is responsible for oversight of four insurance guaranty associations, which also help protect policyholders and claimants from insolvent insurance companies.

Financial's responsibilities encompass over 2,435 insurance companies, health maintenance organizations (HMOs), and related entities licensed or otherwise eligible to operate in Texas. As reported on 2006 annual statements, these firms collected \$88 billion in Texas premiums. Financial's core activities are organized in the following divisions: General Management; Company Licensing and Registration; Financial Analysis and Examinations¹; Actuarial; Conservation; and Liquidation Oversight. A description of each follows.

General Management

General Management consists of the Financial Program Associate Commissioner, the Deputy Commissioner, the Special Advisor, the Office Manager, and support staff. General Management:

- manages the Financial Program and activities of its five divisions
- manages, tracks, and reports performance measures
- drafts the program business and strategic plans
- contributes to other agency reports, such as TDI's Annual Report
- administers the program budget.

¹ The Financial Program is engaged in restructuring that will result in Examinations and Financial Analysis being split, each led by a direct report to the Associate Commissioner.

Company Licensing and Registration (CL&R)

The Company Licensing and Registration Division is the gatekeeper of market entrants and participants. CL&R's primary goal is to protect consumers by ensuring that only financially healthy, well-managed, and trustworthy insurers are allowed to enter the Texas market and serve the insurance-buying public, which promotes availability of coverage and a competitive marketplace. The division accomplishes this goal by licensing insurance carriers operating in Texas and determining eligibility of surplus lines carriers.

CL&R includes the Early Warning unit, which supports agency-wide efforts to detect potentially troubled insurance companies quickly, and the Contract Administrator for the Financial Program, who coordinates contracting functions related to Special Deputy Receivers, contract examinations, contract actuaries, etc.

Financial Analysis and Examinations (FA&E)

The Financial Analysis and Examinations Division protects the insurance-buying public by ensuring that carriers remain financially sound and compliant with regulations and rules. Financial, actuarial, and market conduct activities are necessary to ensure a strong marketplace, protect against unfair or discriminatory market conduct practices, and initiate regulatory action through early detection of insurance companies operating in hazardous condition.

The Examination section, predominantly field-based with three field offices in Houston, Dallas, and San Antonio, conducts examinations of companies' books and records to verify statutory solvency and compliance with laws and regulations. A small number of staff are based in Austin.

The Market Conduct Examinations section performs unique examinations that review how insurers operate with respect to customers. The purpose of market regulation is to assess how well the market is doing as a whole, and how well individual companies within the market are meeting consumers' needs.

Financial Analysis staff are located in Austin. Staff monitor the current financial condition of licensed companies through review of quarterly and annual financial statement filings. They review and approval of holding company and reinsurance transactions.

Actuarial

The Actuarial Division coordinates with the FA&E Division to perform actuarial examinations of insurers to determine the adequacy of reserves and compliance with Texas requirements. The division supports solvency monitoring with these examinations and by providing actuarial input and analysis to other divisions regarding financially troubled companies.

Conservation of Companies

Conservation of Companies protects the public and marketplace from companies operating in hazardous condition through on-site interventions and seeks to rehabilitate those companies by directing them to develop and implement corrective action plans to cure the hazardous condition and comply with applicable laws and regulations. Conservation of Companies provides supervision and conservatorship services, which are two of the strongest measures available to the Commissioner for rehabilitating insurance companies in hazardous financial condition and protecting company assets in the interests of policyholders and insurance guaranty fund associations.

Liquidation Oversight

Liquidation Oversight assists the Commissioner as receiver, whose fiduciary duty is to protect policyholder interests and the public by marshalling assets, minimizing expenses and making equitable distributions to rightful claimants of insolvent estates. Liquidation Oversight also oversees insurance guaranty associations to maximize coordination between all parties involved in liquidations and transition claims processing and payment of claims of financially impaired carriers.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Texas has been nationally and internationally recognized for having a premier financial solvency and surveillance operation.

- Staff have been selected to travel to foreign countries to share solvency monitoring expertise.
- The Financial Program has been nationally accredited for the past 12 years.
- Financial participates in a joint United States-European Union project for solvency information sharing.
- Staff provided leadership at the National Association of Insurance Commissioners (NAIC) level for development of Statutory Accounting Practices and Procedures, early warning, actuarial issues, and Uniform Certificate of Authority Application process that were designed to allow insurers to file copies of the same application for admission in numerous states, etc.
- TDI is a member of the Interstate Insurance Product Regulation Commission. The commission enables state regulators to develop uniform national standards for asset protection insurance products, such as life insurance, annuities, disability income, and long-term care insurance. The commission establishes a central filing point for these insurance products, enhancing the speed and efficiency of regulatory decisions and allowing companies to compete more effectively in the modern financial marketplace while continuing to provide protection for consumers.

The Financial Program has been on the forefront of insolvency regulation. Texas was the first state to adopt the Receivership Model Act. Texas began the early access distribution concept, now a national norm, where receivership estate funds are transferred to the insurance guaranty association for policyholder claims payments.

General Management has developed regulatory templates that provide the industry with the program's expectations for various required filings or activities and examples of issues that invite additional scrutiny. The current topics include Business Plans, Management Fitness and Competency, Management Service Agreements and Reinsurance, and Financial Condition of an Acquiring Party, which are included on the TDI website. Future topics include Internal Controls, Market Conduct Actions, Regulatory Intervention Abatement Requirements, Coordination with Guaranty Associations, and Regulatory Compliance for Self-Insured Groups.

The Financial Program performance measures demonstrating program effectiveness appear in each division's Section VII response.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

1991 - HB 62 (72nd Legislature, 2nd Called Session) privatized the Liquidation Division of the State Board of Insurance. As a result, the Liquidation Oversight Division was created to monitor the contracting of Special Deputy Receivers to administer receiverships.

1994 - Financial Program added conservation functions. The Conservation Division was moved to the Financial Program from the Commissioner's Office.

1996 - Liquidation Oversight Division was moved to the Financial Program. Financial Examinations developed an in-house Oracle database system to manage examination scheduling and billing, capture historical results of examinations, and provide enhanced reporting capabilities.

1999 - Financial Program created the new Company Licensing and Registration Division (CL&R) comprising Insurer Services, Early Warning, and Contract Administrator Divisions and developed a web page to assist the industry with licensure requirements and follow-up compliance requirements.

2000 - CL&R streamlined the licensing process as a Uniform Certificate of Authority Application (UCAA) Member State of NAIC. The Financial Monitoring Division and the Examinations Division were merged into the Financial Analysis and Examinations Division. FA&E implemented the use of ACL software to perform computerized audit and analysis of large populations of data obtained from examined companies. Previously, the data could only be audited through selective sampling, while ACL allows for 100 percent re-test or analysis of the data.

2001 - Liquidation Oversight closed the Records Center, which housed receivership records, transferred responsibility of maintaining receivership records to the Special Deputy Receivers, and instituted a new records retention schedule.

2003 - Adopted rules to implement HB 2095, 78th Legislature and began licensing workers' compensation self-insured groups. Financial Examinations implemented the use of TeamMate, which allows examiners in both FA& E and Actuarial to conduct paperless examinations.

2005 - Market Conduct Surveillance Act, SB 14, 79th Texas Legislature, created uniformity of market conduct examinations based on guidelines developed and adopted by the NAIC, designed to be used by market conduct surveillance personnel in conducting examinations. Through legislation passed by the 79th Legislature, Texas Insurance Code, Chapter 21A, receiverships became a regulatory tool for the Financial Program for the purpose of rehabilitation.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Financial Program oversees the licensing and financial regulation of over 2,435 insurers and various other types of insurance-related entities. Financial's regulatory activities directly and indirectly affect all policyholders, claimants, and other individuals/businesses who are consumers of insurance products. All risk-bearing entities doing the "business of insurance" in Texas are required to be licensed or registered by TDI and must meet minimum financial statutory requirements.

The following table itemizes the types of entities subject to some degree of licensing and regulation by the Financial Program as of December 31, 2006.

Detail Regulated Company Report						
	December 31, 2005			December 31, 2006		
	Texas	Foreign	Total	Texas	Foreign	Total
Mutual Life Insurance Companies	3	40	43	3	39	42
Stock Life Insurance Companies	120	488	608	115	482	597
Stipulated Premium Companies	34	0	34	33	0	33
Non-Profit Life Companies	3	0	3	2	0	2
Stock Fire Insurance Companies	2	5	7	2	4	6
Mutual Fire & Casualty Companies	5	53	58	5	56	61
Stock Fire & Casualty Companies	100	666	766	106	665	771
Stock Casualty Companies	9	138	147	8	147	155
Mexican Casualty Companies	0	11	11	0	11	11
Lloyds	63	0	63	60	0	60
Reciprocal Exchanges	10	15	25	9	15	24
Joint Underwriting Associations	3	3	6	3	3	6
Risk Retention Groups	2	0	2	2	0	2
County Mutuals	24	0	24	24	0	24
Fraternal Benefit Societies	8	24	32	8	24	32
Title Insurance Companies	4	28	32	4	28	32
Non-Profit Legal Services Corps.	3	0	3	3	0	3
Health Maintenance Organizations	49	3	52	50	4	54
Local Mutual Aid	3	0	3	3	0	3
Local Mutual Burial	2	0	2	2	0	2
Exempt Associations	9	0	9	9	0	9
Farm Mutuals	17	0	17	17	0	17
Continuing Care Retirement	20	4	24	21	4	25
Multiple Employer Welfare Assoc.	6	0	6	6	0	6
Workers' Comp. Self Ins. Groups	0	7	7	0	8	8
Foreign Surplus Lines	0	122	122	0	126	126
Alien Surplus Lines	0	41	41	0	45	45
Foreign Risk Retention	0	83	83	0	96	96
Accredited and Trusteed Reinsurers	0	185	185	0	185	185
Total	499	1,916	2,415	495	1,942	2,437

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Financial Program operates under the leadership of an Associate Commissioner. The leaders of the program's functional divisions report directly to the Associate Commissioner and are responsible for each division's management in accordance with TDI's mission and legal mandates. Program staff work in Austin and from field offices located in the Dallas, Houston, and San Antonio. The Financial Program's organizational chart is provided as an attachment to the TDI Self-Evaluation Report.

The Financial Program regulates insurers "from the cradle to the grave." Financial's activities affect insurers from incorporation and licensure, through regular check-ups via examinations, treatment of hazardous financial conditions via rehabilitation, to the time of liquidation should the insurer's problems prove to be incurable. The following table provides a very broad outline of Financial's activities throughout the life of a regulated company.

Division	New Authority to Operate	Active Market Participation	Withdrawal or Liquidation
Company Licensing & Registration	New certificates of authority for admitted and non-admitted market	Amended certificates of authority for admitted and non-admitted market	Review/approval of withdrawal plans; Canceling certificates of authority
Financial Analysis & Examinations	Approval for acquisition of Texas insurers (FA); Qualifying examinations for newly authorized insurers (Exams)	Financial Reviews (FA); Approval of financial transactions (FA); 1-5 year interval statutory examinations (Exams); Target examinations (Exams)	Not applicable
Actuarial	Not applicable	Examination of reserves Review of actuarial opinions	Not applicable
Conservation	Not applicable	Supervision and conservation of troubled companies Monitoring foreign rehabilitations	Not applicable
Liquidation Oversight	Not applicable	Not applicable	Special Deputy Receiver process

Like all TDI programs and divisions, the Financial Program operates under agency-wide general instructions embodied in the agency's *Personnel Manual*; *Operations Manual*; *Computer Security Manual*; *Open Records Manual*; and *Health, Safety and Risk Management Manual*. The Program follows procedures for *Identification and Rehabilitation Planning for Troubled Companies*. Financial's functional divisions utilize other sources of guidance, as described below.

CL&R

Procedures for the licensing and regulation of insurers and other specific entities are described in detail in the Texas Insurance Code, Texas Administrative Code, and specific licensing forms and instructional publications produced by the Financial Program. Most of the applicable information is available to the industry and to the public on TDI's website.

FA&E

FA&E conducts analysis and examinations in accordance with the Texas Insurance Code, Texas Administrative Code, NAIC *Financial Conditions Examiners Handbook*, NAIC *Financial Analysis Handbook*, NAIC *Market Conduct Examiners Handbook*, NAIC *Accounting Practices and Procedures Manual*, NAIC *Quarterly and Annual Statement Instructions*, and numerous internal procedure memoranda. Many of these guidance resources contain detailed descriptions of processes as well as flow charts and other descriptive materials.

Actuarial

In addition to the sources listed above for FA&E, Actuarial uses manuals and procedures including laws and regulations regarding reserves, *Actuarial Standards of Practice*, *Actuarial Guidelines*, internal functional procedures, and *Insurance Services Office's (ISO) Technical Analysis* report.

Conservation of Companies

Conservation of Companies utilizes all of the above-listed sources, the NAIC *Troubled Company Handbook* and the TDI *Conservation of Companies Field Procedures Manual*.

Liquidation Oversight

Liquidation Oversight utilizes the Texas Insurance Code, Texas Administrative Code, and various manuals and procedure memoranda, including *Liquidation Oversight Procedures*, the *Liquidation Oversight Analyst Manual*, the *Special Deputy Receiver Orientation Manual*, and the *Guaranty Association Board Member Orientation Manual*.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

Liquidation Oversight Division salaries and expenses are allocated to open receiverships based on a formula and are paid by the receivership estates. The operation of the Liquidation Oversight Division has no impact on the General Revenue Fund.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

Insurance Regulation

Each U.S. state and territory and the District of Columbia has an equivalent division similar to the Financial Program that focuses on maintaining and enforcing standards for financial solvency and market conduct of their respective domiciled or chartered insurance companies.

Regulation of Other Financial Institutions

Certain types of financial institutions are regulated in accordance with state and federal law. For example, insurance sales transactions performed by banks, securities dealers, and stock exchanges are regulated to protect the public and enforce fiduciary standards.

Regulation of Certain Entities

Certain types of entities such as multiple employer welfare arrangements (MEWAs) and entities offering products such as Medicare, Medicaid, Employee Retirement Income Security Act (ERISA), employee leasing arrangements, and publicly traded holding company transactions are subject to both federal and state laws.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Insurance Regulation

The Financial Program works closely with regulators in other states, either directly or through NAIC efforts, to avoid duplication of effort and achieve uniformity of regulation from state to state. Texas has been a leader in moving the NAIC forward to meet the challenges facing the industry and the economy in general.

Other states, working with or through the NAIC, provide the following services:

- coordination of financial and market conduct examinations of insurers operating in multiple states
- sharing insurers' information through meetings and Financial Analysis Working Group conference calls
- drafting model laws and regulations for adoption by states to provide uniformity of regulation
- developing uniform formats (blanks) for financial statements
- researching regulatory issues through working groups and NAIC's research staff
- providing nationwide databases of financial data, complaint information, securities valuations, and records of disciplinary actions against insurers and related entities
- developing and providing software to regulators to assist in performance of duties
- providing training to regulatory staff
- developing publications such as compilations of statistics on a national or state-by-state basis.

Regulation of other Financial Institutions/Entities

The Financial Program works with other regulators as needed, coordinating efforts to avoid duplication and share necessary information. Some examples include:

- Texas Department of Banking, coordinate efforts for holding company transactions and Gramm-Leach-Bliley Act Compliance
- United States Department of Labor, coordinate regarding MEWAs and employee leasing arrangements
- United States Securities and Exchange Commission, coordinate holding company transactions
- Center for Medicare and Medicaid Services, coordinate Medicare issues
- Health and Human Services Commission, coordinate Medicaid issues
- Office of the Attorney General, coordinate on licensing issues (e.g. medical discount programs).

The Program has information sharing agreements with the following entities:

- Texas Department of Banking
- Texas State Securities Board
- Texas Savings & Loan Department
- Consumer Credit Commissioner
- Texas Credit Union Department
- Office of Thrift Supervision
- Financial Services Authority (England's regulator)
- Office of the Comptroller of the Currency
- Federal Deposit Insurance Corporation
- Federal Reserve.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Financial Program does not have any ongoing activities with local units of government. The program does, on an ad hoc basis, work with local government entities to answer inquiries and provide information and statistics about insurers, bonding companies and other entities that may do business with local governments. Additionally, the program coordinates with state and federal governments as described in Section VII.I above.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Financial identified possible statutory changes in the TDI Biennial Report to the 80th Legislature, which resulted in the proposal of two bills during the 80th Legislature's Conference Session:

Risk Based Capital (RBC)

Current law does not authorize the Commissioner to apply RBC requirements to county mutual insurance companies and Lloyd's plans. County mutual companies hold nearly 45 percent of the private passenger automobile insurance market and Lloyd's plans hold 76 percent of the homeowners insurance market in Texas. Although exempt insurers are exposed to the exact same risks that resulted in the application of RBC to competitors, they enjoy an unfair advantage by being subject to substantially lower capital requirements. Since the unpaid claims of insolvent insurers result in tax credits that reduce premium tax collections, exempting these companies from RBC exposes the state's general revenue should these exempt insurers become insolvent.

HB 2191, 80th Legislature, Conference Session, amended Section 822.205 to subject previously exempt insurance companies to RBC requirements that the commissioner may adopt by rule under Section

822.210 of the Insurance Code. The bill proposed a transition period to allow impacted insurers a phase-in period to comply with RBC requirements and avoid unintended impacts to the market and affected insurance companies. The bill further required the commissioner of insurance to adopt requirements for certain niche carriers and require these carriers to file a plan with TDI that reflects how compliance with the requirements will be achieved over a 10-year transition period. The House Insurance Committee of the 80th Legislature approved CSHB 2191, but the bill did not make it to the House floor for reading.

Clarification of Investment Statutes

TDI's application of Articles 3.33 and 3.41 to foreign (non-domestic) insurers has been challenged. The division suggests clarifying the applicability of Texas Insurance Code, Article 3.41, investment limitations to non-domestic insurers. The division further suggests that the Commissioner be allowed, after notice and hearing, to issue an order that includes one of several remedial actions regarding an insurer's financial condition, including the added remedy of rectifying "an asset deficiency as a result of the insurer holding an investment that is not of the same type, quality, character or class of investment authorized under this code." Such an amendment would provide greater protection to Texas consumers against the threat of a foreign insurance company's insolvency and safeguard domestic insurers and the state's general revenue.

HB 2550, 80th Legislature, Conference Session, amended Sections 404.001 and 404.003 of the Texas Insurance Code to specify applicability to foreign companies, to specify hearings before the commissioner regarding an order to remedy a financial condition, and to include a specific remedy of rectifying an asset deficiency that is not of the same type, quality, character, or class of investment authorized under the Texas Insurance Code. The House Insurance Committee approved CSHB 2550 but the bill did not make it to the House floor for reading.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Texas is unique in that TDI may intervene by administrative procedure in the operations of an insurer that is deemed hazardous to policyholders. Other states are limited to intervention through the court system. The administrative procedures provide TDI with the ability to take action against a company *ex parte*.

Regulatory intervention is initiated by the "Recommendation Committee" (RECO) after consideration of any regulatory concerns. RECO interventions are generated by all areas within Financial and include participation from all programs within TDI. The goal of a RECO intervention is to confirm the causes of the problems, assist the company in development of a business plan to address those problems, and to monitor the company's action steps to implement the plan. Before an entity is released from regulatory intervention, Financial ensures that all concerns have been addressed through coordination of the Rehabilitation Planning Team, comprising representatives from across the agency.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Why the regulation is needed:

Initial licensing of insurers and other entities ensures that only qualified, viable companies are allowed to conduct business in Texas. This is the “gate keeper” role intended to ensure that troubled companies do not enter the Texas market. Ongoing solvency regulation assures that regulated entities maintain the financial resources needed to meet their contractual obligations to policyholders and claimants. Effective solvency regulation also protects an important source of revenue for the State of Texas, the various premium and maintenance taxes paid by regulated entities. Regulation of the market conduct of insurers through regularly scheduled and targeted examinations verifies insurers are operating in accordance with applicable laws and regulations. Prompt and effective rehabilitation of troubled companies protects the public from financial harm, the industry from unnecessary guaranty fund assessments, and the revenue stream of the State of Texas from undue interruption.

The scope of, and procedures for, inspections or audits of regulated entities:

Most insurers are required by law to file uniform financial statements with the Financial Program on a quarterly and annual basis. Most insurers are subject to an on-site examination to verify financial condition and compliance with market conduct requirements at least every five years.

Follow-up activities conducted when non-compliance is identified; sanctions available to the agency to ensure compliance:

To promote consistent regulation, the Financial Program coordinates management conferences with other TDI areas on issues resulting from examinations or financial analysis reviews. TDI established the Recommendation Committee to monitor troubled companies and communicate with other TDI staff as appropriate. The committee’s purpose is to identify and evaluate regulatory concerns and formulate courses of action within the framework of the Texas Insurance Code, Texas Administrative Code, and other applicable law. These actions include:

- conferences with the company’s management
- limited scope examinations
- administrative oversight
- Chapter 404.051-404.053 sanctions
- Chapter 83 cease and desist orders
- Chapter 404 hazardous condition orders
- Chapter 441 supervision and conservation
- Chapter 443 court rehabilitation
- Chapter 443 receivership.

In supervision, which is generally confidential and not disclosed to the public, a company’s activities are closely monitored by the Financial Program to ensure that specified steps are taken to remedy the deficiencies that have been discovered. In conservation, Financial staff actually take over management of the subject company in an effort to turn the company around. If these steps fail, the Financial Program requests the Attorney General to petition the Travis County District Court for an order placing the

company in receivership. The 79th Legislature became the first in the nation to pass adoption of the NAIC Model Receivership Act as Chapter 21A. This new law provides for rehabilitation through the court or traditional receivership for the purposes of liquidating the company's remaining assets for payment of claims and other debts, and for transfer of claims still outstanding to the appropriate guaranty fund (if any) for payment.

Procedures for handling consumer/public complaints against regulated entities:

Complaints against regulated entities are referred to TDI's Consumer Protection Program or other appropriate area for resolution.

**O. For each regulatory program, if applicable, provide the following complaint information.
The chart headings may be changed if needed to better reflect your agency's practices.**

Not Applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Financial Program, Company Licensing and Registration
Location/Division	William P. Hobby Building, Tower III, 5th Floor
Contact Name	Godwin Ohaechesi, Director
Actual Expenditures, FY 2006	\$986,125.31
Number of FTEs as of August 31, 2006	21.5

B. What is the objective of this program or function? Describe the major activities performed under this program.

Company Licensing and Registration's (CL&R) objective is to assist in the development of a financially strong and competitive insurance market for the benefit and protection of Texas policyholders. CL&R is dedicated to licensing financially viable Texas insurance market entrants and regulating certain corporate activities with customer-service oriented processes and interactions.

The major activities performed by CL&R are as follows:

- incorporate and grant certificates of authority to new risk-bearing applicants seeking to be Texas-domiciled insurers
- grant expansion licenses to non-Texas insurers seeking to do business in Texas
- process corporate amendments (add/delete lines of business, mergers, re-domestications, change of name/address)
- register non-admitted insurers and related entities
- coordinate review of assumption reinsurance transactions
- dissolve insurance company charters
- cancel insurance company licenses
- maintain insurer charter documents
- update and maintain all company license, charter, and permit documents
- post licensure, including processing related transactions and statutory deposits
- monitor early warning system for early detection/intervention of financially troubled entities
- administer contracts for Financial Program, including Special Deputy Receivers.

Applicants seeking to operate in Texas include:

- insurance companies
- health maintenance organizations
- multiple employers welfare arrangements
- continuing care retirement communities
- workers' compensation self-insured groups
- surplus lines insurers
- risk retention groups
- purchasing groups.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

To evaluate its internal functions, CL&R administers an ongoing targeted survey that assesses companies' satisfaction with the company licensing process. The survey gathers information about the timeliness of the filing process and about staff customer service. CL&R has been gathering this information since 1995 and uses it to assess customer service and improve processes. Survey results for FY 2006 show that companies applying for new licenses or amending existing licenses rate CL&R services favorably, with an average overall satisfaction rating of 9.08 out of 10. The three year average is 9.1 out of 10.

The division's performance is also evidenced by the fact that CL&R consistently licenses new companies in less than the performance measure target of 60 days. The table below presents the past three fiscal years' performance.

New Companies Licensed in Texas			
	FY04	FY05	FY06
New applications received	38	65	58
New companies licensed	41	47	41
Applications withdrawn	3	10	8
Average number of days to license company	52	36	45

Additional performance measures demonstrating effectiveness are provided below.

1.1.2. Outcome 1 – Percent of company, third party administrator, and premium finance licenses completed within 60 days						
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006	
Actual Performance	100%	99%	99%	100%	96%	96%
Annual Target	96%	96%	98%	98%	98%	98%
Percentage of Target	104.02%	102.94%	100.99%	102.04%	97.96%	97.96%
Analysis/ Variance Explanation	TPA and premium finance licenses included in this measure are reported by the Life, Health and Licensing Program; CL&R reports all other insurance company licenses.					

2.1.1. Outcome 5 – Percent of insurers meeting statutory or risk-based capital and surplus requirements					
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006
Actual Performance	99%	99%	99%	99%	99%
Annual Target	97%	97%	97%	97%	97%
Percentage of Target	101.98%	102.09%	101.95%	102.42%	102.06%
Analysis/ Variance Explanation	This number has remained high, but may vary from year to year due to company reorganizations, operational changes, market conditions fluctuations for investments, social reforms measures, etc.				

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in Section VII.D of the Financial Program General Management response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

CL&R affects insurance companies, consumers, and other TDI programs.

- Companies = 2,437 insurers and various other types of insurance-related entities
- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas).

CL&R's early warning, contracting, and Company Information (COIN) activities affect other TDI divisions.

Insurance companies licensed, registered, or certified in Texas must submit an application to demonstrate they can meet the minimum statutory requirements to write business in Texas.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

CL&R is made up of three teams: admitted market, non-admitted market, and early warning/contract administration.

The admitted team handles:

- incorporation of Texas insurance companies
- admission of foreign insurance companies
- certification of workers' compensation self insurance groups
- amendment reviews to existing certificates of authority
- maintenance of statutory deposits (approximately \$912 million on deposit as of August 31, 2006).

The non-admitted team is responsible for reviewing the eligibility of surplus lines insurers to do business in Texas and handles the registration of accredited/trusteed re-insurers, risk retention groups, and purchasing groups. The non-admitted team serves as TDI's liaison with the Surplus Lines Stamping Office of Texas (SLSOT).

The early warning/contract administration team helps coordinate solvency efforts on an agency-wide basis by collecting financial and non-financial information about insurers and holding companies, administers contracts with Special Deputy Receivers (SDRs) hired to liquidate insolvent insurance companies, and coordinates contracts involving examinations and other functions of the financial program.

The division maintains a comprehensive repository of checklists, forms and procedures. Each area of the division follows procedures set out for each task assigned. These documents are voluminous and are kept in a centralized directory which can be accessed by designated staff.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provides identical or similar services or functions. Describe the similarities and differences.

CL&R licenses or registers all risk-bearing entities regulated by TDI. TDI's Life, Health, and Licensing (LHL) Program administers workers' compensation networks, utilization review agents, independent review organizations, and insurance agents/producers. These entities/individuals do not bear risk.

The following entities perform licensing functions similar to those performed by CL&R:

- Secretary of State (SOS), which incorporates non-insurance companies
- Department of Licensing and Regulation (TDLR), which licenses professional employer organizations and for-profit pre-paid legal services
- Surplus Lines Stamping Office of Texas (SLSOT), which assists CL&R's non-admitted team in evaluating surplus lines insurers for eligibility, reviewing of surplus lines insurance policies, and educating insurers on surplus lines requirements in Texas. SLSOT is supervised by TDI and has no regulatory authority.

CL&R functions as a document custodian and regulator, verifying that licensed insurers are compliant with a highly regulated Texas insurance market. CL&R performs a comprehensive review of information filed, which includes a detailed analysis of financial statements submitted with an insurer application and coordination of background checks on an insurer's officers and directors.

In contrast, both SOS and TDLR serve as only document custodians, basically "stamping" the information as filed.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Since CL&R focuses its efforts solely on risk-bearing entities, the division does not duplicate the functions of other TDI programs. CL&R coordinates with the LHL program on background checks and to evaluate the business plans and financial records of HMOs and workers' compensation health care networks.

Entities licensed under the SOS or TDLR are subject to standard bankruptcy laws; risk-bearing entities are subject to TDI financial impairment, receivership, and liquidation laws.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

CL&R works intermittingly with:

- Health and Human Services Commission for Medicaid issues
- Center for Medicare and Medicaid Services for Medicare issues
- Comptroller of Public Accounts on statutory deposits and surplus lines
- SLSOT for surplus lines issues
- other state insurance departments for status of multistate insurers.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Single depository for statutory deposits

The current system is extremely inefficient as it allows insurers to deposit with authorized banks/trusts in any state. Staff has to maintain contact with hundreds of banks nationally and constantly re-establish bank relationships as bank employees change. All deposits should be kept with the Texas Comptroller (a trust company) or any other bank/trust company located in Texas.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The gatekeeping function is necessary to protect consumers by ensuring that only financially healthy, well-managed, and trustworthy insurers are allowed to enter the Texas market and serve the insurance-buying public, ensuring availability of coverage and a competitive marketplace. When noncompliance is identified, CL&R staff write deficiency letters to applicants explaining items that are needed to complete

the filing. Sanctions available to the agency include closing a file as incomplete or denying the application. CL&R staff assist TDI's Consumer Protection and Enforcement programs in researching history of regulated entities that are the subjects of complaints.

**O. For each regulatory program, if applicable, provide the following complaint information.
The chart headings may be changed if needed to better reflect your agency's practices.**

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Financial Program, Financial Analysis & Examinations
Location/Division	William P. Hobby Building, Tower III, 5th Floor Field Offices: Dallas, Houston, San Antonio
Contact Name	Doug Slape, Chief Analyst of Financial Analysis Tony Trevino, Chief Examiner
Actual Expenditures, FY 2006	\$7,322,982.19
Number of FTEs as of August 31, 2006	121.1

B. What is the objective of this program or function? Describe the major activities performed under this program.

The primary functions of Financial Analysis and Examinations (FA&E) include financial analysis, financial examinations, and market conduct examinations. The activities of each function are described below.

Financial Analysis

Staff monitors the financial condition of licensed insurance entities. Key financial analysis activities are as follows:

- review annual and interim financial statements, audited CPA reports, examination reports, reinsurance agreements, and other documents to determine financial condition of insurance companies, HMOs, and other licensed insurance entities
- prioritize companies for review based on set criteria such as, impairment of capital stock, change in policyholders' surplus, adverse loss development, net loss to surplus, knowledge of company operations, negative trends, and National Association of Insurance Commissioners (NAIC) priority
- analyze reinsurance arrangements to ensure compliance with statutes, rules, and proper accounting principles
- monitor reinsurance activity industry-wide and individually between insurance companies
- review filing extension requests for audited financial reports and filing requests for combined or consolidated audited financial reports
- review transactions encompassing approximately 500 domestic and commercially domiciled insurers subject to the Texas Insurance Holding Company Systems Act, including:
 - approval/disapproval of proposed acquisitions and exemptions from control
 - approval/disapproval of extraordinary dividends or distributions
 - assurance of compliance with statutory requirements for material transactions, i.e., investments of affiliates, loans, management/service agreements between affiliates, and
 - approval/disapproval of issuance/payments of surplus debentures.

Financial Examinations

Financial Examinations performs on-site financial and market conduct examinations of insurance companies, HMOs, and certain other regulated entities to determine financial condition and compliance with Texas laws. Examinations are conducted at statutorily mandated intervals of one to five years or through targeted examination as warranted. Examiners collect and analyze annual operations reports filed by all licensed premium finance companies and coordinate the regulation and oversight of HMOs.

Examiners work out of three field offices in Houston, Dallas, and San Antonio, and the TDI headquarters in Austin.

The objectives of the examinations function are as follows:

- Perform on-site financial and market conduct examinations on entities regulated by TDI to determine financial condition and compliance with Texas insurance laws. On-site examinations are extensive and comprehensive examination of insurance entities.
- Collect and analyze annual operation reports filed by all licensed premium finance companies.
- Coordinate with other agency divisions in the regulation and oversight of HMOs.
- Participate in NAIC working groups on consistent application of procedures for solvency and compliance regulation of insurance entities.

To carry out these objectives, examiners conduct on-site examinations of the books, records, and operations of over 500 insurance companies annually and target examinations “as needed” in response to potential regulatory concerns. Other entities subject to examination include insurance guaranty associations, premium finance companies, reinsurance intermediaries, managing general agents, and multiple employer welfare arrangements (MEWAs). Austin-based staff process field examination reports and work with companies to resolve findings of examinations, initiate referrals for regulatory or disciplinary action, and analyze premium finance annual operations reports.

Market Conduct Examinations

The purpose of market regulation is to protect consumers by identifying and correcting insurer operating practices that are in conflict with contract provisions, state laws, rules, regulations, or orders of the commissioner. Market conduct examinations are conducted as warranted given TDI concerns regarding the conduct of an entity. Market conduct examinations are performed on entities regulated by TDI, including life, accident and health, property and casualty, third-party administrators, statistical reporting agencies, affiliates, producers, and premium finance companies.

Staff conduct on-site market conduct examinations of books, records and operations of insurance companies based on:

- consumer complaint issues
- referrals from other divisions or national issues
- known or suspected behavior that is detrimental to insureds or the insurance buying public
- complaint trends and indicators within TDI and NAIC
- findings from other jurisdictions
- amount and type of business the company writes
- prior violations noted in examination reports and throughout TDI
- specific referrals from within TDI or the Financial Program.

The market conduct exams fall into three categories: comprehensive, limited scope, and compliance. Additionally, Market Conduct staff participate in NAIC multistate market conduct examinations.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The division has met the national accreditation standards as established by NAIC. FA&E’s performance measures demonstrate effectiveness, as evidenced below. FA&E embraces technology to efficiently

administer key functions, and coordinates examination and monitoring activities with the NAIC and other state insurance departments. The division has educated and trained other countries' representatives on the regulation of insurance in Texas and the United States.

The NAIC accreditation process promotes the effectiveness and efficiency of the financial analysis and examinations process through the review of processes and institution of new procedures as a result of insurer reviews. Requirements include submission of comprehensive "annual interim review," which is a self-analysis of compliance with standards. Requirements also include visit by an Accreditation On-Site Review Team every five years, with a visit scheduled for 2007.

The objective of the accreditation program is to provide a process whereby solvency regulation of multi-state insurance companies can be enhanced and adequately monitored with emphasis on:

- adequate solvency laws and regulations in each accredited state to protect insurance consumers
- effective and efficient financial analysis and examination processes in each accredited state
- appropriate organizational and personnel practices in each accredited state.

2.1.1. Output 6 – Number of on-site examinations conducted					
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006
Actual Performance	167	167	159	160	156
Annual Target	175	175	167	167	160
Percentage of Target	95.4%	95.4%	95.2%	95.8%	97.5%

2.1.1 Outcome 2 – Percent of identified companies reviewed					
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006
Actual Performance	97%	97%	97%	99%	99%
Annual Target	99%	99%	99%	99%	100%
Percentage of Target	97.72%	97.53%	98.45%	99.98%	99%

FA&E uses a variety of automation tools to improve the effectiveness and efficiency of division processes. A comprehensive list of these automation tools is available for review. Key automation tools are described below.

- TeamMate is an audit management application used to perform and manage examinations in a paperless environment.
- An in-house developed Oracle database is used to manage scheduling and billing, capture historical results, and provide various reporting capabilities for examinations.
- ACL software is used to perform computerized audit and analysis of large populations of data obtained from examined companies.
- An NAIC I-SITE database generates market analysis reports and shares market related information among states.
- The Market Analysis Reporting Tracking System is used to identify companies warranting market conduct exams.
- The Market Conduct Bimonthly Reporting System is used to share information among TDI programs. FA&E requests information from other TDI programs to generate bimonthly early warning reports. Information included in the report considers complaints, company growth, and significant operational changes and is intended to identify at-risk companies.
- To better serve FA& E customers and improve processes, since 2005, TDI has accepted submission of various filings and reports electronically, such as insurer quarterly and annual financial statements.

FA&E participate in the Financial Analysis Working Group, which was created to support coordinated multistate efforts in addressing solvency problems. Staff review and comment on draft rules for the NAIC Accounting Practices and Procedures Manual, which guides independent accountants, industry accountants, and insurance department analysts and examiners on how to properly record business transactions for the purpose of accurate statutory reporting.

The NAIC's International Insurance Relations Committee was established to strengthen the international insurance regulatory system. The committee provides a forum for cooperative efforts between the NAIC, international regulators, and multinational associations of regulators on issues of mutual interest. The committee also provides support to the federal government on international trade issues related to insurance. The Financial Program has either participated or hosted the following countries or international cooperatives for the purpose of education and training on Texas and U.S. insurance regulatory issues and processes:

- Kazakhstan
- India
- China
- Estonia
- Brazil
- Caribbean Regional Technical Assistance Centre.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in Section VII.D of the Financial Program General Management response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

- FA&E's solvency functions affect Texas domestic insurance companies. Policyholders are affected by having coverage with stable and solvent companies which supports the ability of the company to carry out its contractual obligations. Consumers in general are affected by having availability of coverage which is enhanced by having solvent companies willing to do business in a stable and competitive environment. Through the processes of financial analysis and examination of books and records, FA&E often confers with outside entities, which include:

- CPA firms
- computer vendors who provide IT services
- banks for confirmations of balances
- Office of the Attorney General (OAG) for any issues dealing with money laundering by insurance representatives
- District Attorney's Office for any issues dealing with fraudulent activities by insurers
- other states to share resources and work and to reduce cost and impact of examinations to industry
- NAIC.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

FA&E is being restructured. The Chief Examiner will lead Examinations and Market Conduct, and the Chief Analyst will lead Financial Analysis. Examinations are predominantly field-based, with three field offices in Houston, Dallas, and San Antonio; financial analysis is performed from the Austin headquarters.

FA&E uses an automated system to prioritize financial analysis reviews based on insurers' risk level. Prioritization criteria includes, impairment of capital stock, change in policyholders' surplus, adverse loss development, net loss to surplus, knowledge of company operations, negative trends, and NAIC priority. Financial analysis reviews are scheduled based on numerical rankings of one to three. A ranking of "one" is assigned when material financial/regulatory concerns exist. Companies ranked as priority one receive the most stringent analysis and may be targeted for more frequent review. To set the division's examination schedule, management considers a listing of companies which have reached the statutory maximum permitted interval since the last examination and the priority rankings of insurers.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

TDI's FA&E examinations focus on the financial solvency of insurers and other regulated entities. TDI's Health and Workers' Compensation Network Certification and Quality Assurance Division (HWCN) and Title Division also conduct compliance examinations. HWCN examinations focus on quality of care. The Title Division conducts compliance audits of title agents. Title may detect solvency problems with agents and then report those solvency problems to the Financial Program for possible rehabilitation or other action. Additionally, the Division of Workers' Compensation may coordinate with FA&E regarding market conduct of workers' compensation entities.

Other states conduct financial, actuarial, and market conduct examinations on their domiciled companies that may be licensed in Texas. TDI examination staff often participate in coordinated examinations with other states for review of Texas and non-Texas domestic insurance companies.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

HWCN conducts quality of care examinations on health maintenance organizations. Although financial, actuarial, and market conduct examinations do not look specifically at quality of care issues, findings of

such examinations are often shared with the LHL Program through Recommendation Committee meetings.

States coordinate examinations of licensed companies through NAIC zone examinations. The lead state allocates workload, clarifies and coordinates each state's role and needs, and shares work papers and findings with each state.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

FA&E coordinates with other state insurance departments to conduct zone examinations. Additionally, the division communicates with examiners of other states regarding solvency issues. FA&E coordinates with federal regulatory agencies, i.e., Centers for Medicare and Medicaid Services, about solvency issues on troubled insurance companies.

The Financial Program has an MOU with the United States Department of Agriculture (USDA) regarding Texas licensed crop companies. USDA conducts examinations and communicates with TDI on findings.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Following Hurricane Rita, the Financial Program participated in the agency effort to ensure companies appropriately responded to policyholders' claims. This process underscored the importance of ongoing disaster evaluations. Accordingly, on an annual basis, and more frequently as natural disasters require, the Financial Program conducts catastrophe evaluations as follows:

- identify and evaluate writers in designated catastrophe areas, taking into account market share, exposure, financial condition including but not limited to capitalization and reinsurance
- stress-test various points of landfall, penetrating at least two counties
- review other factors, such as self-reported disaster preparedness and physical location
- contact insurers with top exposure
- evaluate the need for regulatory action.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

The examination of insurers is needed to protect policyholders from harm due to insurer insolvency. Texas Insurance Code, Section 401.051, provides the statutory authority to examine insurance entities. The scope depends on the type of examination – comprehensive or limited scope. Comprehensive examinations include reviews of all books and records applicable to the entities particular operations, while limited scope examinations focus on a particular issue, area or deficiency.

- O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Financial Program, Actuarial Division
Location/Division	William P. Hobby Building, Tower III, 2nd Floor
Contact Name	Mike Boerner, Managing Actuary
Actual Expenditures, FY 2006	\$1,075,264.83
Number of FTEs as of May 31, 2007	13

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Actuarial Division enforces reserve standards for insurance companies and related activities that support company solvency and fulfillment of contractual obligations to the consumer. To complement solvency enforcement, the division strives to provide effective, fair, consistent, and appropriate standards. Together, these objectives carry out the agency mission.

Actuarial's major activities are as follows:

- performs actuarial examinations of insurers to determine the adequacy of reserves and compliance with Texas requirements
- supports solvency monitoring by providing actuarial input and analysis to other divisions regarding financially troubled companies
- performs review of actuarial opinions and communicates results with financial analysts and others
- carries out actuarial analysis to support issuance of certificates of valuation as requested by domestic life insurance companies
- provides actuarial expertise in the review of mergers and acquisitions, reserve destrengthenings, exceptions to minimum statutory reserve requirements, reorganizations, assumption reinsurance, policy values, transfer of risk issues, and consumer's equity issues in policy forms
- makes ongoing efforts to keep reserve requirements up to date in Texas through promulgation of rules
- provides expertise to other TDI programs and divisions, as requested
- supports TDI goals by contributing to projects requiring actuarial involvement such as those involving legislative mandates
- provides instrumental participation in developing solvency and actuarial requirements through National Association of Insurance Commissioners (NAIC) and American Academy of Actuaries working groups.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Actuarial Division's core function is to conduct actuarial examinations of Texas domestic insurance companies and make recommendations on reserve items. The division has consistently met the performance measure target for the past five years. Achievement of this target has been supported by a number of tools and efforts including the use of TeamMate automation for actuarial examinations. TeamMate provides structure and consistency in examination steps and procedures during the course of

examinations. Efforts to keep procedures current, meaningful, and effective along with continued discussions of procedures and examination issues also have helped the Actuarial Division meet this target.

2.1.1. Output 5 – Number of actuarial examinations completed					
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006
Actual Performance	80	81	81	84	79
Annual Target	80	80	80	80	80
Percentage of Target	100%	101%	100%	105%	98.75%
Analysis/ Variance Explanation	This measure is linked to performance measure 2.1.1 output six, the number of on-site examinations conducted.				

In fiscal year 2006 the division reviewed 479 actuarial opinions and communicated results of all reviews to the respective financial analysts.

To support effective solvency requirements and support availability of coverage, the division provided significant contributions to the development of a model preferred mortality regulation which was recently adopted in Texas.

Evidence of the division's effectiveness include providing actuarial expertise on legislative issues, including the Military Sales Rule, standard valuation law, race-based rates, small face-amount life insurance issues, and nonforfeiture values in the Interstate Compact.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in Section VII.D of the Financial Program General Management response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Actuarial Division affects the following:

- Companies = 2,437 insurers and various other types of insurance-related entities
- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas).

Actuarial examinations of reserves to determine financial solvency affect Texas domestic insurance companies. The division verifies the companies' ability to meet contractual obligations to policyholders by validating the reserve calculations and assumptions. By offering a regulatory environment with reasonable requirements, such as the preferred mortality regulation, the division promotes solvency, which improves the availability of coverage to consumers.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Actuarial's managing actuary oversees the division functions, whose core focus is the actuarial examination of reserves. The division employs an actuarial team leader for the life/health actuarial examinations and an actuarial team leader for the property/casualty actuarial examinations. Actuarial team leaders support the division manager in meeting the solvency objectives of actuarial examinations and performance measure requirements for actuarial examinations completed. Team leaders are responsible for assigning companies, reviewing workpapers, ensuring adequate coordination with other examiners and timely completion of examinations. The managing actuary and the team leaders are all accredited actuaries.

Actuaries complete rigorous training to become credentialed. The professional examination process takes many years of study; approximately 3,500 hours of study are not uncommon. Agency actuaries network internally and externally through professional actuarial organizations. Knowledge obtained in efforts to become credentialed coupled with internal and external professional networking directly benefits the agency's mission.

The division meets frequently to coordinate work and carry out ongoing review and improvement of work processes. A flow chart for the actuarial examination of reserves is available for review.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provides identical or similar services or functions. Describe the similarities and differences.

The division provides regulatory actuarial solvency analysis, which is not performed by other TDI programs. Related functions such as actuarial review for rate and form compliance are handled by actuaries in the agency in the Life, Health, and Licensing (LHL) and Property and Casualty (P&C) programs.

States which do not have financial actuaries contract with actuarial consulting firms for examination work. Contract actuarial firms perform work similar to that provided by the Actuarial Division; however, services are performed at a much higher cost and with work products that vary from firm to firm.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency’s customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Actuarial Division’s main focus on reserves and solvency does not overlap or conflict with other areas of the agency.

The four areas of actuarial application are depicted below, including the TDI area responsible for review. The quadrants show two types of actuarial review, reserve/solvency and rates and forms, which are categorized by line of insurance – life/health and property/casualty.

	Life/Health	Property/Casualty
Reserves/Solvency	Financial Program actuaries	Financial Program actuaries
Rates & Forms	Life, Health and Licensing Program actuaries	Property and Casualty Program actuaries

The Actuarial Division communicates with LHL and P&C to carry out solvency functions.

The Actuarial Division coordinates with the Life/Health area to provide input on policy forms when necessary. This interaction allows the Actuarial Division to be aware of unusual benefits or forms which may be encountered later in an actuarial examination of a company. The two divisions share relevant information on both reserves and rates/forms.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Actuarial Division coordinates with other state regulatory insurance entities while conducting zone examinations and on actuarial issues for solvency purposes.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2006;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

An attachment to TDI’s Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Eliminate the statutory requirement in Texas Insurance Code, Chapter 425.053, to issue certificates of valuation. The statute does not provide added value given the division’s current solvency efforts. Processing certificates of valuation takes time away from focusing on solvency efforts and review of priority companies. The scope of the certificate of valuation is only on life reserves and not all of the

company's reserves. The timing of the certificate of valuation is problematic because states desire it before meaningful analysis can be performed.

The division is working on the NAIC efforts to modify the corresponding Standard Valuation Law as part of the larger effort to change the way reserves are calculated for life and health insurance. The Legislature and the agency can adopt this and other valuation law changes when the models are completed.

Eliminate or modify the law imposing requirements regarding registered life business. This is an arcane law, that imposes administrative burdens and restrictive requirements on reserves and on the release of redundant reserves for this business. These additional restrictions are not believed to provide a significant additional safety net for such reserves. Companies have a difficult time implementing the unusual requirements. The elimination or modification of these requirements would add efficiencies without impairing solvency.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- **why the regulation is needed;**
 - **the scope of, and procedures for, inspections or audits of regulated entities;**
 - **follow-up activities conducted when non-compliance is identified;**
 - **sanctions available to the agency to ensure compliance; and**
 - **procedures for handling consumer/public complaints against regulated entities.**

Reserve regulations and requirements are needed to promote company solvency and support payment of contractual obligations to consumers. Actuarial achieves its objectives by performing actuarial examinations to ensure compliance with reserve requirements. The division keeps reserve requirements current and appropriate. Actuarial works with FA&E during the examination process to address noncompliance with reserve requirements. When companies are not in compliance with reserve requirements, Actuarial pursues action ranging from a simple reserve adjustment to a Recommendation Committee meeting and subsequent placement under a regulatory action. Statutory reserve requirements are found in Texas Insurance Code, Chapter 425, and in other regulations including those adopted annually in the Accounting Practices and Procedures Manual.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Financial Program , Conservation of Companies
Location/Division	William P. Hobby Building, Tower III, 5th Floor
Contact Name	Angel Garrett, Director of Rehabilitations and Liquidation Oversight
Actual Expenditures, FY 2006	\$725,572.07
Number of FTEs as of May 31, 2007	12

B. What is the objective of this program or function? Describe the major activities performed under this program.

Conservation's primary objectives are preserving the value of assets of entities placed in regulatory intervention and determining if rehabilitation is feasible. Early regulatory intervention prevents receiverships and increases the success of rehabilitations to maintain capacity, protect policyholders, and conserve assets. Preserving the value of assets is accomplished by:

- identifying and evaluating the value, quality, and quantity of various assets
- monitoring, reviewing, and if in conservatorship, controlling business
- decisions and transactions that impact these assets
- evaluating and recommending course(s) of action to enhance or preserve assets while incorporating sound business reasons and statutory compliance with the action.

The division determines the feasibility of company rehabilitation by:

- analyzing and evaluating the financial condition and statutory compliance of assigned estates in conformity with the Texas Insurance Code and other regulations and procedures
- analyzing, evaluating, and making recommendations to proposed rehabilitation plans
- reporting status of the assigned estate.

The division develops and adheres to standard procedures that comply with statutory requirements and sound business practices to ensure that each entity is treated consistently, and that all relevant issues are identified and addressed. Conservation facilitates the transition from regulatory intervention to release, court rehabilitation and/or receivership.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The number of entities receiving TDI solvency-related intervention and the percent of companies rehabilitated following intervention best demonstrate the effectiveness of Conservation, as evidenced by the charts below.

2.1.1. Output 2 – Number of entities receiving TDI solvency-related intervention					
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006
Actual Performance	19	13	9	10	9
Annual Target	19	19	19	19	13
Percentage of Target	100%	68.42%	47.37%	52.63%	69.23%
Analysis/Variance Explanation	For this measure, lower than target is desirable.				

2.1.1. Outcome 6 – Percent of companies rehabilitated after TDI solvency-related intervention					
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006
Actual Performance	18%	30%	17%	25%	26%
Annual Target	18%	18%	18%	18%	18%
Percentage of Target	100%	164.61%	94.44%	138.89%	144.44%
Analysis/Variance Explanation	For this measure, higher than target is desirable.				

The objectives of solvency-related interventions are to preserve existing companies to provide competition and capacity to the market place and to serve as an alternative to the more expensive receivership process, thereby ultimately preserving insurance guaranty association (IGA) funds.

Financial’s early intervention efforts have decreased the number of new receivership estates from an average of almost 33 per year in the late 1980s to an average of about four per year for the last six years.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in Section VII.D of the Financial Program General Management response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Conservation solvency-related interventions affect ownership, management, employees, and policyholders of a troubled company. Conservation interacts with Texas policyholders who have questions concerning a troubled company’s coverage and claim responsibilities. The division’s solvency functions affect and require interaction with the following: State Office of Administrative Hearings (SOAH), Office of the Attorney General (OAG), Texas state district courts, the Federal Bureau of Investigations (FBI), the Internal Revenue Service (IRS), and insurance guaranty associations (IGAs).

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Conservation is headed by the Director of Rehabilitation and Liquidation Oversight. Conservation maintains field offices in Dallas and Houston to minimize travel expenses.

Issuance of an administrative letter, Commissioner’s order, or court order against a company deemed to be in hazardous condition activates the regulatory intervention process. Field staff deliver the Commissioner order or letter to the company’s management. Staff review the order and emphasize to management the requirements for abatement and the deadline for submission of the

business/rehabilitation plan. Some administrative actions have time limits. Supervision has 180 days time limit and conservatorships are issued for a period of 90 days, which may be extended for up to six periods of 30 days each.

Conservation staff determine if rehabilitation is feasible and possible in order to define an exit strategy. The determination is made by evaluating company operations, management, financial condition, books of business, and a company-prepared business plan. In determining the financial condition, Conservation staff prepare a financial analysis with accompanying notes describing the company's solvency condition as well as the capital and surplus position. This analysis may serve as evidence that a company is insolvent if staff are required to testify about findings. At other times, this analysis provides the basis for a review of the company's proposed business plan.

If rehabilitation is feasible, the company implements its business plan and is considered for release when it can demonstrate that it satisfied all abatement items listed in the administrative oversight letters, commissioner's order or court order.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

HB 1, Rider 3, authorizes TDI to receive an appropriated receipt of \$125,000 each year of the biennium for conservation efforts.

Texas Insurance Code, Chapter 441.203 grants Conservation the statutory ability to collect reimbursements for staff time and travel for an intervention. Insurance entities can not reduce future premium taxes for these payments. These reimbursements are collected to offset the rider funds.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

Conservation conducts solvency intervention of Texas-domiciled insurers by administrative action. The Financial Program's Liquidation Oversight Division uses special deputy receivers (SDR) to administer rehabilitation estates, as guided by the court. Similarities include working with the business planning process, making decisions that impact consumers, coordinating with other states' insurance departments and guaranty associations, and recouping expenses for successful rehabilitations.

Other states perform similar functions for companies domiciled in their states; however, it is usually through the court systems. When a company is domiciled in another state, TDI's Commissioner of Insurance may, in certain circumstances, initiate a regulatory action to protect Texas policyholders.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency’s customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

When Conservation intervenes in a company that writes in multiple states, the division coordinates with those states especially in the area of writing new and/or renewal business. When Conservation learns other states have taken any regulatory action, the division is responsive to the respective states’ requests for information on the troubled company.

The domiciliary state usually serves as the lead regulator on multistate solvency interventions. However, if standards for regulatory actions or the majority of policies are concentrated in another state, a non-domiciliary state may take regulatory action per its statutes to protect policyholders. When the insurer’s problems persist, the domiciliary state may also take simultaneous action and efforts between the states are coordinated and not duplicated.

When determination is made for court rehabilitation or receivership, Conservation staff coordinate with the respective Texas IGA, the OAG, and state district courts.

When a company is placed in court rehabilitation, under Chapter 21A, Conservation and Liquidation Oversight jointly take over the company until a SDR is appointed. Conservation facilitates the transition to court rehabilitation, provides supporting documents that contain detailed company and policyholder information to be used by the SDR, and coordinates efforts with Liquidation Oversight staff to maintain the operations and services to policyholders.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Conservation works with the following local, regional, and federal units of government:

- SOAH - Troubled companies may appeal regulatory actions to SOAH.
- OAG – OAG and Conservation coordinate testimony for receivership hearings.
- State district courts - To place a troubled company in receivership, Conservation must appear before Texas state district courts and provide information, affidavits, and testimony. Conservation is responsible for carrying out court orders and reporting back to the court on temporary restraining orders and temporary injunctions.
- FBI and IRS – Conservation communicates with the FBI on criminal investigations and with the IRS regarding tax liabilities and respective penalties.
- IGAs – Once Conservation determines that a company may potentially affect the guaranty fund, the conservator must inform the IGA board and provide an estimate of the insolvency so that the IGA makes the necessary anticipated preparations to assume the responsibilities for policyholders.
- U.S. Department of Labor (DOL) – Conservation communicates with DOL employees on inspections and audits of entities licensed as multiple employer welfare arrangements (MEWAs), which are jointly regulated by TDI and DOL. This communication verifies compliance and completeness of entity requirements pertaining to federal law and is necessary when an entity plans a self dissolution. Additionally, Conservation coordinates with DOL when self insured plans run by third-party administrators (TPA) develop solvency problems. Self-insured plans fall under DOL purview, but TPAs are regulated by TDI.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The Legislature determined that supervision and conservation of a troubled company is necessary to avoid the more expensive alternative of receivership. If a troubled company can correct hazardous financial conditions to protect the public and follow the business plan to restore solvency or compliance with statutes, less disruption to policyholders, the insurance industry that funds insolvencies through insurance guaranty associations and the public occurs.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Financial Program, Liquidation Oversight
Location/Division	William P. Hobby Building, Tower III, 5th Floor
Contact Name	Angel Garrett, Director of Rehabilitations and Liquidation Oversight and Evelyn Jenkins, Director
Actual Expenditures, FY 2006	All expenditures are paid & received from allocated funds.
Number of FTEs as of May 31,2007	8.25 allocated FTEs

B. What is the objective of this program or function? Describe the major activities performed under this program.

Liquidation Oversight assists the Commissioner as receiver in his fiduciary duty to protect the interests of policyholders and the public by marshalling assets, minimizing expenses, and making equitable distributions to the rightful claimants of the insolvent estate. Liquidation Oversight oversees insurance guaranty associations to maximize coordination between all parties involved in liquidations and transition claims processing and payment of impaired carriers. The division's major activities are to:

- provide oversight of the rehabilitation and liquidation of insolvent insurers
- evaluate and assess Special Deputy Receivers (SDRs) involved in the program and provide feedback to them regarding performance
- offer training through SDR conferences and forums
- maintain records of insolvent insurers during and after receivership pursuant to the records retention schedule and the Texas Insurance Code
- attend IGA board meetings and prepare reports of activities of the various boards.

Liquidation Oversight oversees SDRs, outside contractors who take over the management, rehabilitation, or liquidation of an insurer after a court ordered receivership. Liquidation Oversight reviews monthly management reports and quarterly financial reports for each entity in receivership. Liquidation Oversight interacts with the SDRs to provide:

- oversight and guidance through cost benefit analyses
- quarterly status conferences before the special master
- daily interaction regarding the management, claims processes, relationships with guaranty associations, legal issues and litigation, and financial operations of the companies.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Liquidation Oversight's effectiveness is best demonstrated by the amount of net asset recoveries collected from receivership estates, as evidenced by the chart below.

2.1.1. Output 3 – Dollar amount (millions) of net asset recoveries collected from receivership estates					
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006
Actual Performance	\$24.3	\$36.8	\$22.0	\$40.1	\$25.8
Annual Target	\$6.0	\$6.0	\$8.0	\$8.0	\$15.0
Percentage of Target	405.46%	613%	275.49%	501%	172%
Analysis/ Variance Explanation	Higher than target is desirable.				

The division recognizes the importance of expanding the pool of qualified SDRs since the agency entrusts SDRs with the responsibility of administering receiverships. Previously every third year, applications were accepted to qualify new SDR candidates and re-qualify existing SDRs. As of 2007, applications will be accepted annually in order to facilitate new applicants and expand the pool of qualified SDRs. Through Liquidation Oversight's SDR and Subcontractor Conference in 2006, potential new SDRs were educated in the processes of bidding, SDR selection, and other aspects of receivership management. This conference allowed SDRs and possible subcontractors to interact allowing SDR's to recruit and build a team for the purposes of tendering bids on new receivership contracts. Currently there are 45 individuals or companies that have been qualified as SDRs.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in Section VII.D of the Financial Program General Management response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Liquidation Oversight affects:

- Texas policyholders and consumers from other states who have lost coverage or have outstanding claims involving insolvent insurers
- creditors and stockholders or owners of insolvent insurers
- Texas and other states' IGAs
- Special Deputy Receivers and their subcontractors who are active in the rehabilitation and liquidation efforts.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The division is led by the Director of Rehabilitations and Liquidation Oversight and the Director of Liquidation Oversight. Under the supervision of the Director of Liquidation Oversight, each receivership is assigned an analyst to review reports submitted by the SDRs, monitor and evaluate performance, and administer the contract. Annual site visits are performed to provide further appraisal of activities, and recommendations for improvement are provided in writing to each SDR.

Annually, Liquidation Oversight conducts an SDR conference in Austin. The conferences are designed as a forum for SDRs to collectively share information and the best, most effective approaches to handling issues confronting estates. Speakers include SDRs, staff or subcontractors, IGA staff, employees of other sections of TDI with whom the SDRs interact, and experts on issues involving the rehabilitation and liquidation process. At the end of the conference, attendees complete course evaluations which are used to plan future conferences.

Receiverships are subject to the Travis County District Court. On a quarterly basis, the Special Master, appointed by the Travis County District Court, holds status conferences on individual estates. Generally, the three parties that are formally represented before the Special Master are the SDR, Liquidation Oversight, and the respective IGA. Other creditors or interested parties can attend but do not usually take an active role. At the status conference, the SDR gives the Special Master an update of the activities that have taken place during the quarter. Customarily, the SDR will distribute an agenda of items to be discussed to the Special Master and relevant parties. Any interested party located out of town may participate via telephone upon request.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Liquidation Oversight salaries and expenses are allocated to open receiverships based on a formula and are paid by the receivership. Expenses for work on a closed receivership and any Liquidation Oversight travel unrelated to a receivership is paid from the Abandoned Property Fund (APF). The APF, created by statute, is also used to fund the administration of receivership estates that have no assets or insufficient assets to complete the receivership process.

The operation of the Liquidation Oversight Division, which includes oversight of open receiverships and responses to the public on items concerning closed receiverships, has no impact on the General Revenue Fund.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

The Financial Program's Conservation Division conducts rehabilitation activities by administrative actions. Liquidation Oversight contracts with SDRs to administer rehabilitation estates that are ordered into receivership by the court. The court-ordered rehabilitation gives the receiver defined powers and complete control of the company.

Other states have similar receivership functions that use outside contractors to administer receiverships. Texas was the first state to adopt the NAIC Receivership Model Act into law (Texas Insurance Code, Chapter 21A, effective 09/01/2005).

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Court-ordered rehabilitations, under Chapter 443 (formerly Chapter 21A), are handled solely by Liquidation Oversight. Conservation coordinates transfer of responsibilities to Liquidation Oversight when a company is placed in court-ordered receivership. Conservation and Liquidation staff may jointly take over a company until a SDR is appointed. Liquidation Oversight utilizes a checklist to ensure that all tasks are performed by the appropriate person. Managers on site assign specific duties to both Liquidation Oversight and Conservation staff.

In court-ordered rehabilitations or receiverships, multistate coordination with other receivers and IGAs is often necessary to facilitate access to company data and to afford other states' policyholders the same protections and benefits of the receivership process as Texas policyholders.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Receiverships present different challenges and opportunities to interact with various local, regional, or federal units of government. Some examples of coordination with governmental entities include:

- Office of the Attorney General, state and local prosecutors, and the Federal Bureau of Investigations in the prosecution of fraud or other financial crimes
- State insurance departments and guaranty associations – receiverships licensed in other states requiring interstate coordination
- Pension Benefit Guaranty Fund – benefit programs of insolvent insurers
- U.S. Department of Labor (DOL) – receiverships with letters of credit involving DOL
- Internal Revenue Service – receivership tax issues.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

Twenty-one contracts with \$2.6 million worth of administrative expenditures were administered in Liquidation Oversight in FY 2006. Since the SDR functions are contracted, Liquidation Oversight assures the fiduciary duty of the SDRs is carried out in the most cost effective and professional manner and that the policyholders and other creditors of the insolvent insurers have the benefit of the maximization of the assets available and the recovery of any additional assets. Liquidation Oversight reviews monthly management reports and quarterly financial reports and provides oversight and guidance to SDRs as described in Liquidation Oversight's response to VII.B. For improved performance,

Liquidation Oversight conducts training through SDR conferences and forums to keep SDRs advised of law changes, court decisions, etc. Liquidation Oversight also evaluates and assesses SDRs involved in the program and provides feedback to SDRs regarding performance under the contracts.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Certain portions of Texas Insurance Code, Chapter 443, could be clarified to provide greater specificity regarding oversight authority and duties. Staff recommend including rehabilitation procedures and clarifying rehabilitator duties, rehabilitation plan elements, and guaranty association reporting requirements in Chapter 443, Sections 102, 103, and 106, respectively.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

The circumstances that existed in 1991, when the receivership process was privatized, are vastly different than today. In 1991, the number of receiverships was at a record high – over 150 pending and over 800 related cases in litigation. Today, there are only 21 liquidations pending, and the majority of these are currently scheduled to be closed in the next 12 months.

TDI has been facing challenges in recent years, such as declining number of qualified bids received from potential contractors and difficulties in managing the actions of certain private contractors, which led to complaints from the public. Therefore, it may be appropriate to consider utilizing TDI staff resources to administer more receivership estates in the future.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Why the regulation is needed

The Receivership Act (Act), Chapter 443, is designed to protect the policyholders and other creditors in the event of a rehabilitation or receivership. The receivership process and the protection provided by IGAs for unpaid claims works in tandem to provide a policyholder safety net in the event an insurer is unable to meet its contractual obligations.

The scope of, and procedures for, inspections or audits of regulated entities

The Act provides for contracting with an SDR who assumes all rights and responsibilities of the receiver. Liquidation Oversight requires monthly financial and management reports on each receivership and conducts a review of the information provided. The SDR also files standardized quarterly financial reports with the receivership court, reporting expenses, assets, and liabilities. Annually, Liquidation Oversight evaluates all SDRs and provides feedback on performance in the previous year. All SDR contracts contain a liquidated damages clause should the SDR terminate representation of the estate. The liquidated damages are set relative to the size and complexity of the receivership. The division conducts an annual risk assessment on all SDRs, and the three SDRs that score the highest are recommended for audit performed by an outside independent auditor who reports findings to Liquidation Oversight.

Follow-up activities conducted when non-compliance is identified

Liquidation Oversight analysts direct follow-up questions related to monthly activity to the SDRs. Liquidation Oversight can disallow SDR or subcontractor billings that are excessive or fail to comply with division policy.

Sanctions available to the agency to ensure compliance

Liquidation Oversight notes SDR repeated violations of procedures in evaluations, which are communicated to the SDR at the time of the infraction. Liquidation Oversight uses evaluation results when selecting SDRs. A poor evaluation may prevent an SDR from obtaining a new receivership contract. An SDR whose performance is judged to be consistently substandard or who commits an egregious violation may have the contract rescinded, re-bid, and awarded to a new SDR.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Consumers submit complaints against SDRs to TDI's Consumer Protection (CP) Program. CP sends acknowledgement to complainants, copying Liquidation Oversight and in some cases, the SDR. Liquidation Oversight instructs SDRs to respond to the complainants and copy the division on responses for inclusion in SDR files and future performance evaluations. If Liquidation Oversight receives a large number of complaints against a particular SDR, the division will determine whether emergency response is necessary.

Complaints against insurance guaranty associations are routed to Liquidation Oversight from CP, the public, and through legislative channels. The division evaluates complaints, and the director contacts the IGA allowing an opportunity to respond to the complaints. Liquidation Oversight follows up on complaints to ensure proper resolution. The division reports complaints from legislators to Government Relations within 24 hours.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Fraud Unit
Location/Division	William P. Hobby Building, Tower I, 9th Floor
Contact Name	Dennis Pompa
Actual Expenditures, FY 2006	\$1,921, 205.06
Number of FTEs as of August 31, 2006	37

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Fraud Unit protects the public from economic harm by investigating allegations of criminal insurance fraud. The unit's responsibilities include receiving and reviewing reports of fraud, initiating inquiries, and conducting investigations when TDI has reason to suspect insurance fraud (Texas Insurance Code Chapter 701). In addition, the unit actively seeks criminal indictments, makes arrests, and assists in prosecutions to deter insurance fraud in Texas.

The Fraud Unit receives reports of suspected insurance fraud from insurers and the public. The unit maintains a toll-free Insurance Fraud Hotline and an online fraud reporting system on the TDI website. Investigations may occur inside or outside of Texas and typically involve one of the following types of fraud:

- claim fraud committed against an insurer
- fraud by licensees against their company or the public
- insurance application fraud
- unauthorized business of insurance, including operating without proper authority or the sale of fraudulent insurance products
- workers' compensation.

The Fraud Unit reports to the Commissioner of Insurance annually on fraud trends and investigations involving substantial financial losses to consumers or insurance entities.

If a fraud investigator determines that a violation is suitable for state or federal prosecution, the investigator submits a comprehensive investigative report to the appropriate agency. Investigative reports include facts discovered during investigations and may also contain witness/suspect statements, financial records, and analyses of financial transactions. The Commissioner of Insurance and the Fraud Unit routinely subpoena records during an investigation. A Fraud Unit investigative report provides a prosecutor with sufficient evidence to pursue charges against insurance fraud suspects.

The Fraud Unit communicates with TDI's Legal Services; Enforcement; Consumer Protection; Financial; Life, Health, and Licensing; Property and Casualty programs; and DWC's Legal Services through participation in regularly scheduled meetings. The Fraud Unit has an internal process for agency employees to report fraud. During the regularly scheduled meetings, the Fraud Unit provides programs with updates on pending investigations.

The Fraud Unit has two attorneys on staff, the Fraud Counsel and the Special Prosecutor. The Fraud Counsel provides legal advice and investigative support to the unit and may serve as a special prosecutor to prosecute fraud in Texas counties. The Special Prosecutor works out of the Dallas County District Attorney’s Office to prosecute cases referred by the Fraud Unit.

The Fraud Unit hosts meetings for enforcement divisions of state professional licensing boards to support Governor Perry’s executive order RP-36. This 2004 order directs state agencies to focus on eliminating fraud, waste, and abuse.

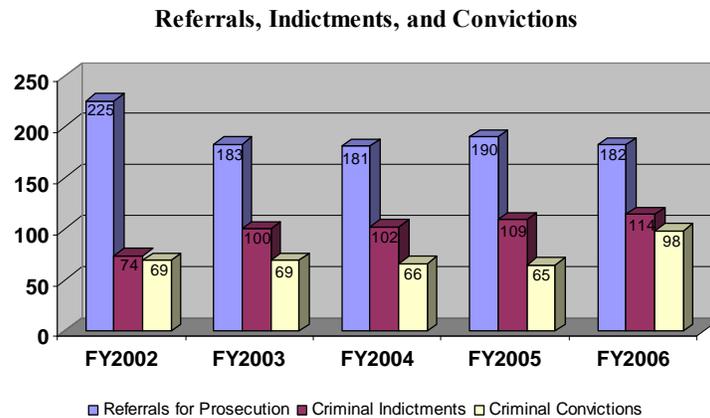
The Fraud Unit has a statewide regional liaison initiative with state and federal law enforcement agencies, antifraud organizations, and insurance company special investigative units. A primary and a secondary Fraud Unit investigator are assigned to each of eight geographic regions in Texas.

The Fraud Unit provides state professional licensing board enforcement divisions with information about insurance fraud investigations involving their licensees.

Annually for the past nine years, the Fraud Unit has provided a training program for insurance fraud investigators employed by law enforcement agencies, insurance companies, and other state agencies. The program provides an opportunity to learn current investigative techniques and skills for enhancing investigative reports.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Fraud Unit’s effectiveness is best demonstrated by the number of fraud referrals to prosecutors and the number of indictments and convictions for insurance fraud. In FY 2006, the unit referred 182 insurance fraud cases to prosecutors. Of those, 114 people were indicted, and 98 ultimately convicted. A five-year summary of referrals, indictments, and convictions follows.



The following FY 2006 statistics further illustrate the unit's effectiveness and efficiency:

- 9,712 fraud reports received (via mail and the online reporting form on TDI's website)
- 3,507 calls received via TDI's toll-free Insurance Fraud Hotline
- 448 cases opened for investigation
- 274 subpoenas issued
- \$11,305,172 – amount of fraud identified in referred cases
- \$4,285,478 – amount of restitution assessed by courts on Fraud Unit cases
- \$80,797 – amount of fines assessed
- 263 open records requests processed.

The Fraud Unit makes presentations to the public and industry to help promote fraud awareness. In FY 2006-2007, Fraud Unit staff made 19 presentations.

In FY 2007, the number of fraud reports increased by 43 percent from FY 2006 as a result of legislative changes to the fraud reporting statute to require insurers to report all fraud to the Fraud Unit.

The Fraud Unit transitioned to a new case management system in FY 2007, which is expected to improve investigative efficiency. The unit is evaluating using the system to establish a paperless referral process.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

1991 – 72nd Legislature created an Insurance Fraud Unit.

1995 – The 74th Legislature authorized the Commissioner of Insurance to hire peace officers to investigate insurance fraud.

1997 – The Fraud Unit began coordinating and conducting insurance fraud training for law enforcement, the insurance industry, and agency staff through an annual conference.

2005 – The Fraud Unit instituted an outreach initiative to all law enforcement agencies in Texas, including prosecutors. The initiative included training and investigative assistance on insurance fraud.

2006 – The Commissioner of Workers' Compensation delegated responsibility for investigating fraudulent workers' compensation matters to the Fraud Unit.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Insurance fraud is the second-most common white-collar crime after tax evasion. The Coalition Against Insurance Fraud and the National Insurance Crime Bureau currently estimate that insurance fraud costs the average American family \$1,000 per year in increased insurance premiums, in addition to the increased cost of goods and services purchased. Insurance fraud may also affect an insurance company through the payment of claims that otherwise would not warrant payment. Additionally, fraud against an insurance company could adversely affect the company's solvency. Finally, the sale of fraudulent insurance products or the operation of a fraudulent insurance entity poses a severe financial risk to those who may unknowingly do business with an unlicensed entity.

Below is the statistical breakdown of insurance companies, agents/adjusters, and consumers in Texas that the Fraud Unit affects:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Fraud Unit employs investigators, including commissioned peace officers, attorneys, criminal analysts, and administrative support staff. Fraud Unit management includes the Associate Commissioner/Chief Investigator who supervises the investigators and investigator supervisors. An attorney in the Austin office provides legal advice to staff during investigations and reviews investigation materials for referral for prosecution. A second Fraud Unit attorney is a special prosecutor under a memorandum of understanding with the Dallas County District Attorney's Office to prosecute cases referred by the Fraud Unit. All other staff work from TDI's headquarters in Austin.

Fraud Unit staff attend training to stay current on policies and procedures and improve their skills. Peace officers are required to obtain 40 hours of continuing education each year. Managers are required to complete the TDI management training track. Administrative staff attend computer and professional development courses offered at TDI.

The Fraud Unit recognizes the importance of retaining competent and trained employees. The unit's commissioned peace officers have previous experience investigating white-collar and financial crime. Investigative staff must also be proficient in the use of specialized investigation analysis software. In addition, investigative staff complete courses in insurance and insurance industry terminology taught by TDI's Human Resources (HR) section. The primary obstacle to retaining qualified staff is competition with trade associations, the insurance industry, and other state agencies.

To reduce turnover rates, the Fraud Unit worked with HR to identify salary and non-salary initiatives. HR researched the salaries of employees in similar positions in the relevant labor market. Based on the review, qualified fraud investigators received an equity adjustment of \$135 a month, making the starting monthly salary for an Investigator VI \$3,770, for an Investigator VII \$4,263, and for a Manager II \$4,635. To maintain good communication and morale within the program, the Fraud Unit has bimonthly manager meetings and monthly staff meetings. At each staff meeting, an employee is recognized as employee of the month for his or her contributions to the success of the Fraud Unit. The employee of the month is nominated by peers and selected by the managers.

The Fraud Unit has several succession planning initiatives. Administrative functions are covered by assigning a primary, backup, and secondary backup. Each investigation has a lead investigator and a manager as a backup. Fraud Unit processes are outlined in an administrative procedures manual and an investigators manual. Additionally, new investigators are assigned mentors who help them become familiar with investigative procedures.

Management-employee workgroups evaluate and recommend improvements to Fraud Unit processes and offer input on issues. The workgroups include Legislative and Policy Advisory Group, Training Advisory Group, Workflow Processes Group, Employee Recognition, and Event Planning and Outreach Training Program.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

Internal Programs

Both TDI's Fraud Unit and Enforcement programs investigate violations of the insurance code. Enforcement is responsible for administrative actions, while the Fraud Unit prepares cases for criminal prosecution. Many Enforcement cases involve allegations of activities that, if proven, would provide the basis for prosecution. TDI's Fraud Unit investigates and prepares these cases for referral to various district attorneys around the state. Companion cases often run simultaneously in both Enforcement and the Fraud Unit because Enforcement may still assess an appropriate administrative action against a licensee while the Fraud Unit pursues criminal prosecution.

External Entities

The Travis County District Attorney (DA) also investigates insurance fraud. The DA primarily pursues investigations of fraud involving persons licensed by TDI or those conducting the business of insurance without a license. The Texas Insurance Code, Chapter 85, establishes Travis County as the venue for prosecution of persons engaged in the business of insurance. The Fraud Unit refers completed investigations of persons engaged in the business of insurance to the DA and works with the DA's staff to pursue cases for prosecution. The DA is the only prosecuting entity that reinvestigates cases referred by the Fraud Unit. In addition, the DA investigates matters independent of the Fraud Unit. The DA does not disclose its criteria for investigating fraud.

The Office of the Texas Attorney General (OAG) and the Texas Health and Human Services Commission's (HHSC) Inspector General's Office investigate Medicaid and Medicare fraud.

The Texas Auto Theft Prevention Authority provides financial grants to law enforcement agencies across the state to investigate auto theft. Fraud Unit investigators communicate with auto task force members upon receiving information from insurers of existing investigations.

The Federal Bureau of Investigations (FBI) also investigates insurance fraud and routinely coordinates efforts with the Fraud Unit.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Internal Programs

The Fraud Unit meets with TDI's Legal Services; Enforcement; Consumer Protection; Financial; Life, Health, and Licensing; and Property and Casualty programs biweekly. The unit also submits a monthly

case status report of active fraud investigations to Enforcement and meets regularly with DWC's Legal Services Section.

External Entities

The Fraud Unit forwards reports of fraud associated with professional licensees to the appropriate licensing agency. The unit also provides outreach to law enforcement agencies, antifraud organizations, and insurers and maintains a database to document contacts.

The Fraud Unit and Enforcement Program, along with the Travis County DA, meet quarterly to discuss pending investigations. Each month, the Fraud Unit and the Travis County DA prepare case status reports to avoid duplication of investigations. A Fraud Unit investigator meets at least weekly with the DA's office on case-related matters.

In addition, the Fraud Unit participates in the quarterly meeting of the Medicaid Fraud Task Force. The task force includes the OAG, HHSC, and the Office of the Texas Comptroller. The legislatively mandated meetings are to discuss investigative matters.

Fraud Unit investigators participate in monthly meetings with law enforcement and insurance investigators in Dallas, Fort Worth, San Antonio, and Houston.

The Fraud Unit also participates on several statewide task forces with an FBI liaison and a U.S. Postal Inspector.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Local, State, and Federal Law Enforcement

The Fraud Unit works with police departments, local sheriffs' departments, state prosecutors, federal prosecutors, and federal law enforcement agencies. Fraud Unit investigators participate in task force investigations.

Texas Committee on Insurance Fraud

The Fraud Unit participated in the formation of the Texas Committee on Insurance Fraud, which is a collaborative group of the insurance industry, legislators, antifraud associations, prosecutors, law enforcement entities, and other state agencies. This committee is working to improve insurance fraud legislation in Texas.

State Agencies and Health Professional Boards

The Fraud Unit meets routinely with the enforcement directors of other state agencies and health professional boards to create awareness of fraud committed within areas of their authority.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2006;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The Fraud Unit has no specific statutory changes to recommend.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

As a law enforcement agency, TDI's Fraud Unit may access the FBI's criminal records database and the Texas Department of Public Safety's criminal database. Access to this information is critical to conduct insurance fraud investigations. The Fraud Unit is also a law enforcement member of the Regional Organized Crime Information Center and the National White Collar Crime Center. These are federally funded organizations that provide investigative assistance to member law enforcement agencies.

Fraud Unit peace officers are authorized to make arrests and execute search warrants against fraud suspects.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Life, Health, and Licensing – General Management
Location/Division	William P. Hobby Building, Tower I, 7th Floor
Contact Name	Jennifer Ahrens, Senior Associate Commissioner
Actual Expenditures, FY 2006	\$677,078.23
Number of FTEs as of August 31, 2006	9

B. What is the objective of this program or function? Describe the major activities performed under this program.

General Management provides operational direction for the Life, Health, and Licensing (LHL) Program. LHL performs the following major activities:

- licenses agents, adjusters, and third-party administrators
- processes and reviews rate and form filings
- reviews accident and health, life, annuities, and credit insurance products
- regulates health maintenance organizations, utilization review agents, independent review organizations, and workers' compensation health care networks, including resolving complaints against these entities.

The Senior Associate Commissioner (SAC) for Life, Health, and Licensing leads the program. The SAC chairs the Technical Advisory Committee on Claims Processing and is the agency's Provider Ombudsman. The SAC or a designee represents the Commissioner of Insurance on various boards and councils. Additionally, the SAC is TDI's liaison for the boards of the Texas Health Insurance Risk Pool (THIRP), the Children's Health Insurance Program (CHIP), and the Texas Health Care Policy Council, and attends board meetings of the Texas Health Reinsurance System (THRS).

General Management provides technical assistance to the Texas Health and Human Services Commission (HHSC), the Texas Department of State Health Services, the Office of the Attorney General, THIRP, THRS, and the federal Centers for Medicare and Medicaid Services (CMS). The SAC and division deputies serve on various National Association of Insurance Commissioners (NAIC) working groups. General Management staff collect and analyze data to monitor the Texas health insurance market.

In addition, General Management staff:

- report on industry data and provide technical assistance to legislative committees and task forces
- direct the federal State Planning Grant study of options to expand health insurance in Texas
- monitor electronic claim submission requirements mandated by the Health Insurance Portability and Availability Act (HIPAA) and the Medicare Prescription Drug, Improvement, and Modernization Act of 2003
- assist the SAC in developing regulatory policies for LHL divisions
- communicate with consumers and the regulated community
- provide technical assistance to other state and federal agencies
- track, analyze, and coordinate TDI's comments on proposed legislation pertaining to LHL

- inform industry and other interested parties of legislative and rule changes through bulletins or other means
- draft rules to implement state and federal legislation.

General Management develops the program's business plan and the program's portion of the agency's strategic plan, annual report, appropriations request and budget, and handles ad hoc special projects.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Performance measure charts are in VII.C of each division's description. In addition to formal performance measures, LHL uses input from staff surveys, such as the Survey of Organizational Excellence conducted by the University of Texas School of Social Work, and from consumer surveys to monitor effectiveness.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is in each Life, Health and Licensing division's VII.D response.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

This information is in each Life, Health and Licensing division's VII.E response.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Senior Associate Commissioner leads the program. The program has four divisions, each led by a Deputy Commissioner:

- Licensing
- Filings and Operations
- Life/Health
- Health and Workers' Compensation Network Certification and Quality Assurance.

The program regulates health maintenance organizations (HMOs), workers' compensation health care networks, and life, annuity, accident and health insurance, and related coverages. LHL also licenses insurance agents, adjusters, public insurance adjusters, third-party administrators, viatical and life settlement providers, provider representatives and brokers, premium finance companies, utilization review agents, and independent review organizations. LHL resolves HMO complaints and conducts quality of care examinations of HMOs. The Health and Workers' Compensation Network Certification and Quality Assurance Division certifies workers' compensation health care networks. While the LHL Program affects the entire state, no regional staff operate in this program.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

No other programs perform the oversight functions or support functions of LHL's General Management. However, several sections within the agency, including Human Resources, Administrative Services, and Information Technology Services, provide business and resource planning and technology support services similar to or in conjunction with LHL General Management.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

While no other program in the agency provides the same services that LHL provides, General Management works with other programs in the agency to ensure coordination and consistency of regulatory efforts.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

General Management works with CMS to ensure that the State's High Risk Pool remains a federally qualified alternative to guaranteed individual health insurance coverage. General Management's Director of Special Projects recently worked with the federal Health Resources and Services Administration (HRSA) to develop a pilot project in Harris County to provide group insurance for small employers.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

This information is in each Life, Health and Licensing division's VII.N response.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Complaint information is in each Life, Health and Licensing division's VII.O response.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Life, Health, and Licensing Program – Licensing Division
Location/Division	William P. Hobby Building, Tower I, 7th Floor
Contact Name	Matt Ray, Deputy Commissioner
Actual Expenditures, FY 2006	\$1,802,281.17
Number of FTEs as of August 31, 2006	42.5

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Licensing Division licenses and regulates insurance agents, adjusters, risk managers, life insurance counselors, insurance service representatives, reinsurance intermediaries, third-party administrators (TPAs), premium finance companies, and persons involved in selling insurance products in travel agencies, self-service storage facilities, retail establishments, telecommunications outlets, and rental car companies.

The Licensing division has five sections:

- **Applications Section** reviews and processes applications for new licenses for agents and adjusters, oversees the criminal history review process, registers additional trade names and trade locations, and records sponsors of subagents and insurance service representatives.
- **Customer Service Section** responds to inquiries and telephone calls from agents, companies, and the public, including questions regarding licenses, appointment status, and the licensing process.
- **Renewals, Appointments, and Continuing Education Section** reviews and processes renewals, records and cancels agent and sub-agent appointments, approves continuing education providers and courses, and oversees the training courses for agents and adjusters.
- **Administrative Review and Data Management Section** researches and reviews applications with a criminal history, makes recommendations on the issuance or denial of a license, and recommends appropriate action on nonroutine agent applications, renewals, and cancellations for cause. This section also produces certificates and other records regarding license status, cancels licenses when requested by the licensee, records address and name changes, processes open records requests, and maintains the division's files.
- **Third-Party Administrator and Premium Finance Section** licenses, regulates, and examines TPAs, which administer plans under contracts with insurance companies, HMOs, or self-funded plans; and licenses premium finance companies.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

As evidence of its effectiveness and efficiency, the Licensing Division:

- Exceeded the performance measure target for completing 98 percent of licenses within 60 days in fiscal year FY 2006 and FY 2007.
- Exceeded the performance measure target for completing 95 percent of agent license filings within 15 days in FY 2006 and FY 2007.
- Lowered the average processing time for the more than 700,000 filings received each year. Average processing time has fallen from 5.2 days in FY 2002 to 3.0 days in FY 2003, and to 2.2 days in FY 2004, FY 2005, and FY 2006.

In addition, the division adopted the Criminal History Fingerprint Rule. The rule transfers the \$39 cost of processing fingerprints to the license applicant. It also establishes a process by which TDI can submit fingerprints and obtain a state and national fingerprint criminal history on applicants.

The division expanded electronic processing capabilities in 2006 by accepting nonresident renewals processed electronically through the National Insurance Producer Registry (NIPR).

The Licensing Deputy Commissioner was a member of the NAIC Producer Licensing Working Group, which developed the Fingerprint Model Act, the Public Adjuster Model Act, and the Producer Licensing Fiduciary Model Act.

Other evidence of the division's effectiveness includes:

- The Securities and Insurance Licensing Association (SILA) honored the Licensing Division as the Regulatory Unit of the Year in 2005. The division was the first licensing division to be awarded this recognition.
- SILA selected the Licensing Deputy Commissioner as an advisory board member of SILA. The organization serves more than 800 members from the insurance industry.
- SILA honored the Licensing Deputy Commissioner as the 2006 Warren E. Spruill outstanding regulator of the year award.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Not applicable.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Licensing Division affects individuals contracted with or employed by insurance companies to sell, solicit, or market insurance products to the public. Most applicants must pass a licensing examination, complete an application, and pay a licensing fee. The following table illustrates the breakdown of persons or entities affected.

TEXAS DEPARTMENT OF INSURANCE						
FY 2005 and FY 2006 ACTIVE LICENSES AT FISCAL YEAR ENDS						
License Description	8/31/2005			8/31/2006		
	Agents	Agencies	Total Active Licenses	Agents	Agencies	Total Active Licenses
Adjuster - All Lines	16,316	0	16,316	21,591	0	21,591
Adjuster - Property and Casualty	33,461	0	33,461	39,351	0	39,351
Adjuster - Workers' Compensation	3,886	0	3,886	3,828	0	3,828
Adjuster - Trainee	1,131	0	1,131	1,399	0	1,399
Adjuster - Emergency	16	0	16	75	0	75
County Mutual	3,432	30	3,462	3,453	28	3,481
Emergency MGA	0	0	0	0	0	0
General Lines - Life, Accident, Health and HMO	145,054	4,784	149,838	152,406	5,217	157,623
General Lines - Property and Casualty	82,578	5,093	87,671	89,610	5,678	95,288
Home Office Salaried Employees	1,292	0	1,292	1,259	0	1,259
Insurance Service Representative	2,069	0	2,069	1,832	0	1,832
Life and Health Insurance Counselor	232	3	235	266	7	273
Life Insurance not to Exceed \$15,000	1,020	6	1,026	967	6	973
Limited Lines	7,539	81	7,620	5,797	77	5,874
Managing General Agent	1,154	489	1,643	1,120	476	1,596
Pre-Need (funeral pre-arrangement)	2,487	4	2,491	2,360	6	2,366
Public Insurance Adjuster	114	1	115	161	3	164
Public Insurance Adjuster Trainee	0	0	0	3	0	3
Reinsurance Broker	1,232	57	1,289	1,287	61	1,348
Reinsurance Managers	139	13	152	141	14	155
Risk Manager	1,096	4	1,100	1,089	9	1,098
Surplus Lines	2,761	624	3,385	2,972	725	3,697
Specialty - Credit	194	2,694	2,888	171	2,737	2,908
Specialty - Rental Car Company	3	69	72	4	64	68
Specialty - Self-Service Storage Facility	5	69	74	4	70	74
Specialty - Telecommunications	0	11	11	0	13	13
Specialty - Travel	264	435	699	277	444	721
Temp. County Mutual	0	0	0	0	0	0
Temp. General Lines - LAH	510	0	510	750	0	750
Temp. General Lines - P&C	13	0	13	9	0	9
Temp. General Lines - Emerg. P&C	0	0	0	1	0	1
Temp. Life Insurance not to Exceed \$15,000	0	0	0	0	0	0
Temp. Limited Lines	2	0	2	2	0	2
Temp. Pre-Need	13	0	13	10	0	10
TOTAL	308,013	14,467	322,480	332,195	15,635	347,830

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

A Deputy Commissioner oversees the activities of the Licensing Division. The division's primary functions include:

Applications

Staff receive applications and enter basic information (name, address, Social Security number, date of birth, and type of license sought) into the tracking system. As processors review applications, they can generate licenses if the applicant has met all licensing requirements. If a processor rejects an application, the system retains the agent information and the reasons for the rejection.

The Licensing Division processes approximately 1,800 license applications each week. Each morning, staff print the licenses issued the previous day and deliver them to Mail Services for mailing.

The licensing tracking system:

- generates a list showing the names, birth dates, and Social Security numbers of applicants for which the division requested a criminal history from the Texas Department of Public Safety
- shows an applicant's sponsors or a sponsor-type relationship, which is required for some licenses
- captures the date that staff entered new information, such as additional locations or trade names
- generates a unique identification number for each new licensee.

Fees

Licensing fee payments are handled through a lockbox agreement with the Comptroller of Public Accounts. Staff indicate the fee paid on the source documents and deposit the money. Fee transactions are recorded in the Administrative Services Division's cash receipts system and in the licensing system.

Some licensing processes are automated electronic filings. The Comptroller of Public Accounts receives these fees electronically.

Renewals

The system identifies licenses due for renewal and prints renewal notices 90 days prior to the expiration of the existing license. The system administrator can change the 90-day period, if needed, and set other criteria to generate renewal notices. If the licensee holds multiple general lines licenses, the renewal notice includes all qualifications with the same expiration date.

The system accommodates license types with different renewal periods and sorts renewals in a specified order (for example, by name or ZIP code). It also generates rejection letters for renewals that cannot be processed.

Appointments

Appointments may be entered into the system electronically through the NIPR or an NIPR-authorized business partner. Electronically transmitted appointments that contain incomplete or erroneous data are rejected and transmitted back to the sender with a reason for the rejection.

The system generates daily listings to each company with appointment or cancellation activity. The listings show all appointments and cancellations for that company.

Continuing Education

The Continuing Education (CE) Section registers CE providers and courses and oversees the training courses for agents and adjusters.

Staff review CE provider applications and CE and licensing course submissions to determine whether the filing is complete and in compliance with the Texas Insurance Code and rules. Staff enter all filings into the CE database and notify the applicant whether the application was approved or rejected. Approved filings display on the agency's website.

The CE Section randomly audits approximately one percent of all licensees to determine compliance with their continuing education requirement. Licensees must provide evidence of completion of their continuing education requirements. The CE Compliance Specialist refers any licensees deficient in their CE requirements to TDI's Enforcement Program.

Administrative Review

The Administrative Review Section recommends whether the agency should issue or deny a license if an applicant has a criminal history. The section also recommends appropriate action on all nonroutine agent applications, renewals, and cancellations for cause. The section relies on applicable state laws and agency rules to determine whether the specific criminal history justifies denial of an application. Staff use the following decision matrix to guide their recommendations.

Significance of 28 TAC 1.502(b) Factors

1.502 (b) Rule Provision	Less Significant	Most Significant
(1)(A) nature and seriousness of crime	Misdemeanors, crimes that do not involve fraud, dishonesty or deceit	Felonies, any offense for which fraud, dishonesty or deceit is an essential element
(1)(B) relationship of crime to purposes for requiring a license	Crime does not involve an element of trust	Crime shows evidence of lack of trustworthiness
(1)(C) extent to which a license might offer opportunity to engage in criminal activity of the same type	Crime does not involve an element of trust, dishonesty, or fraud	Crime shows evidence of lack of trustworthiness, dishonesty or fraud
(1)(D) relationship of crime to ability, capacity, or fitness required to perform duties and responsibilities of occupation	Crime does not involve an element of trust, dishonesty, or fraud and did not involve a fiduciary relationship or handling of money	Crime shows evidence of lack of trustworthiness, dishonesty or fraud and involved a fiduciary relationship or handling of money
(2)(A) extent and nature of past criminal activity	Single offense	Multiple offenses
(2)(B) age of person at the time of commission of crime	Youthful offense	Adult offense
(2)(C) amount of time elapsed since last criminal activity	Felony offense - > 10 years Misdemeanor - > 7 years	Felony offense ≤ 10 years Misdemeanor ≤ 7 years
Mitigating Factors:		
(2)(D) conduct and work activity prior to and following criminal activity	No work history or sporadic work	Steady employment, extensive work history
(2)(E)	No rehabilitative effort, failure to	Educational degrees, completion

1.502 (b) Rule Provision	Less Significant	Most Significant
evidence of person’s rehabilitation or rehabilitative effort	pay fines or restitution, no evidence of remorse	of rehab programs (i.e. drug), payment of fines or restitution, expression of remorse
(2)(F) other evidence of present fitness including letters of recommendation	No letters of recommendation	Multiple letters of recommendation from individuals aware of criminal history

A flow chart detailing the administrative review process is available for review.

Letter of Clearance or Certification

Staff enter information about requests for clearance or certification. The system generates letters of clearance and certification in the order entered. If the status of the license does not allow the issuance of a letter of clearance or certification, the agent receives an acknowledgement letter.

Address Changes

Staff enter address change requests into the system, which automatically updates the agent/adjuster database on TexasOnline. TexasOnline is accessible from TDI’s website, www.tdi.state.tx.us.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency’s operations. Maintenance taxes and fees are the two main revenues that fund the agency’s appropriations to regulate the insurance and workers’ compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

TDI’s Title Division licenses escrow officers, title agents, and title agencies. Title insurance is a unique product and there is very little, if any, dual licensing of title agents, escrow officers, and title agencies with the individuals licensed by the Licensing Division.

The Life/Health Division registers individuals engaged in the viatical/life settlement business. The main difference between the Life/Health Division’s process and the Licensing Division’s is the lack of an examination requirement for viatical/life settlement registrants. Plans are under way to transfer viatical/life settlement registration to the Licensing Division. A majority of viatical/life settlement brokers also have a life, accident, and health license. For this reason, consolidating the functions would improve efficiency.

The HWCN Division’s utilization review agent certification process is similar. The main difference is the lack of an examination requirement for URAs. There is very little, if any, crossover between URAs and individuals licensed by the Licensing Division.

The State Fire Marshal issues registrations, licenses, and permits to individuals and companies in the fire alarm, extinguisher, sprinkler, and fireworks industries. There is very little, if any, crossover between SFMO licensees and individuals licensed by the Licensing Division.

The Financial Program's Company Licensing and Registration Division (CL&R) licenses and issues certificates of authority to insurance companies.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Consolidation of Criminal History Background Checks

The Licensing Division performs criminal history reviews for the agency as a whole to avoid duplication of effort. The division submits fingerprint cards to the Texas Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) on behalf of the Title Division and the Company Licensing and Registration (CL&R) Division.

Coordination with Fraud Unit on Applicant's Failure to Disclose a Criminal History

TDI's CL&R Division submits a daily copy of the list of applicants who failed to disclose a criminal history. The Fraud Unit determines whether to refer the applicant to the Travis County District Attorney for making a false filing with a governmental entity. Making a false filing is a felony offense.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Not applicable.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

The Licensing Division has focused on the automation of licensing functions due to:

- large volumes of transactions
- receptive nature of the transactions to automation
- increased opportunity for minimizing clerical mistakes
- ability to minimize processing time
- improved convenience, service, and satisfaction of our customers.

Electronic Processes and Program's use of Internet and Databases

Applications Section

A TDI contract testing vendor installed digital fingerprinting machines in the 16 contracted testing sites in July 2003. The result is faster submission of fingerprints to DPS and fewer rejections for poor quality fingerprints.

Applicants required to pass an examination for licensing submit an application to the testing vendor, who then enters the application into the vendor's database, screens the application per TDI business rules, and submits information electronically to TDI.

Texas accepts and processes electronic nonresident applications via the NIPR automated system, which is available 24 hours a day, seven days a week. Average TDI processing time for electronic nonresident licensing is three days, starting from the time the applicant completes the online application. (Average time for nonresident nonelectronic license processing is nine days).

Nonresidents may submit general lines agent license applications to TDI via NIPR's website, www.licenseregistry.com.

Customer Service Section

The Licensing Division uses an interactive voice response (IVR) telephone system to answer calls to its Customer Assistance section. During normal business hours, callers can press "0" to speak to a customer service representative.

Callers can access license status and additional information from the IVR system. They can also request duplicate renewal applications and license certificates and obtain instructions for ordering forms. This automated feature handles 30 percent of the 14,000 calls the division receives on average each month.

The Dictaphone Freedom call recording system records calls received and made on designated phone lines. This includes calls made to and transferred by Customer Service Representatives to other agency staff. Recorded calls are archived for six months. Customer Service management can listen to "live" calls and retrieve archived calls within 10 minutes after the call ends. The system allows management to monitor the quality of responses provided to customers and helps identify topics for additional training.

Renewals, Appointments and Continuing Education

The Licensing Division utilizes TexasOnline, a state web portal, to allow electronic renewal of agent/adjuster licenses. The average processing time for online transactions is slightly shorter than the processing time for offline transactions. The average turn-around time for both processes is the same – two days. More than 50 percent of renewals are submitted and processed electronically.

The biggest advantage of the online process is customer convenience, since customers can renew licenses 24 hours a day, 7 days a week. The process provides an online database of licensed agents and adjusters in Texas. The Agent Lookup/Renewal feature on TexasOnline receives a monthly average of 400,000 hits.

Offline renewal forms contain optical character recognition coding that allows the Texas Comptroller of Public Accounts to electronically read the form and transmit the information to TDI for automated processing.

Appointments/terminations are processed via a form that can be scanned and entered into the system. They also may be entered electronically through NIPR or an NIPR-authorized business partner. Approximately 90 percent of the 470,000 appointments and terminations processed each year are processed electronically through NIPR or an NIPR-authorized business partner.

Administrative Review and Data Management Section

Approximately 50 percent of the letters of certification requests are handled in an automated process when licensees make their requests through an outside vendor, SIRCON.

Third-Party Administrator (TPA) and Premium Finance Section

The TPA section revised the TPA Annual Report Form to include collection of additional data from TPAs about the plans administered and the average claim adjudication and payment time periods per plan. The forms are available on the website for download.

The annual report forms are mailed using a mail merge program. The spreadsheets that serve as exhibits are posted on TDI's website for download so that TPAs can fill them out and submit them electronically to TDI as e-mail attachments.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Regulation and licensing of insurance agents and adjusters protects the public. The complex and varied nature of insurance and related products makes it crucial that the public be able to trust and rely on such persons. License and authorization holders and applicants must be knowledgeable, honest, and reliable.

Applicants for agent and adjuster licenses must demonstrate a basic knowledge of the specific line of insurance they will be selling by passing an entry-level examination. Once licensed, the licensee must complete continuing education courses during every two-year licensing period (30 hours for most license types and 10 hours for a limited license).

Applicants must submit fingerprint cards for criminal background checks with DPS and FBI. This check determines whether the applicant has a criminal history that should preclude licensure. TDI reviews the criminal history using the guidelines in Texas Insurance Code, Chapter 4005, Texas Occupations Code, Section 53.025, and 28 Texas Administrative Code, Section 1.502.

The agency may take disciplinary action, including fines, suspension, or license revocations, against agents or adjusters who do not comply with state or federal insurance laws, as well as those found to have engaged in fraudulent or dishonest practices or convicted of a felony. The Enforcement Program investigates and handles disciplinary proceedings against agents and adjusters before the State Office of Administrative Hearings.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Life, Health and Licensing Program – Filing and Operations Division
Location/Division	William P. Hobby Building, Tower I, 4th Floor
Contact Name	Angelia Johnson, Deputy Commissioner
Actual Expenditures, FY 2006	\$580,569.89
Number of FTEs as of August 31, 2006	14.5

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Filing and Operations (F&O) Division encourages fair competition in the insurance industry by initially screening rate and form filings for compliance with minimum requirements. The division consists of the following sections:

- Property and Casualty (P&C) Intake Section** receives rule, rate, and policy form filings for personal and commercial automobile, general liability, workers' compensation, professional liability, personal and commercial property, bond and miscellaneous casualty, inland marine, identity theft, and interline and multiperil lines of insurance. In addition, the section receives filings related to credit scoring and underwriting guidelines. Intake staff screen the filings for compliance with basic requirements. Most filings are paper; however, the section receives electronic filings via the National Association of Insurance Commissioner (NAIC) System for Electronic Rate and Form Filing (SERFF). Staff enter filing data into the Oracle tracking system and forward the filings to the appropriate divisions for review and final action. Intake staff manage the P&C tracking database. Staff prepare various management and NAIC reports and assist Information Technology Services (ITS) with SERFF and tracking system issues and enhancements.
- Life/Health and HMO Intake Section** receives rate and policy form filings for life, annuity, group and individual accident and health, credit life, credit accident and health, HMO, nonprofit prepaid legal, viatical and life settlements, and related products. The section screens filings for compliance with basic requirements. Most filings are paper; however, the section also receives electronic filings via SERFF and the Multi-State Review (MSR) I-File system. The MSR allows a company to submit a single filing to the states of California, Florida, Texas, Georgia, and Nevada for approval. Intake staff enter filing data into the Oracle tracking system and forward the filings to the appropriate divisions for review and final action. Staff prepare NAIC reports and assist ITS staff with SERFF issues and enhancements.
- Micrographics Section** produces electronic images of closed files for the Life, Health, and Licensing (LHL) Program, Division of Workers' Compensation, and the Property and Casualty Program. Micrographics arranges to destroy program files according to their retention schedules and assists with agency imaging projects.
- Operations Section** performs LHL program activities, including project management, forms management, disaster recovery planning, business planning, strategic planning, performance measure tracking, and records retention. The section is the liaison between LHL divisions and Administrative Services on operations matters and represents LHL on the Agency Planning and

Technology Team. The Deputy Commissioner is the TDI Compliance Conference Coordinator and Outreach and Education Coordinator for LHL's Health and Workers' Compensation Network Division.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

To address issues regarding receipt of checks attached to filings and large refunds, F&O implemented a billing system and associated administrative rules. The new billing system has allowed staff to redirect time spent processing checks to reviewing filings and handling billing inquiries. Another evidence of efficiency is the increased number of electronic filings submitted to the agency. SERFF filings are more efficient and, when appropriate, allow automatic invoicing of applicable fees. Customer feedback has been positive. Insurance companies using SERFF report cost savings from electronic filing. Additionally, F&O implemented back-end scanning in 1998. The public may now view imaged closed files on dedicated personal computers. Electronic filing has reduced the amount of time spent processing open records requests and substantially decreased the amount of space required for file storage.

Following is a comparison of fiscal year (FY) 2006 output levels to FY 2005 levels:

- \$429,150 in life and health rate and form filing fees, compared with \$379,911 in FY 2005
- \$99,822 in HMO rate and form filing fees, compared with \$58,100 in FY 2005
- \$57,650 in viatical settlement regulatory fees, compared with \$36,850 in FY 2005
- 7,559 exempt life/health rate and form filings processed, compared with 6,324 in FY 2005
- 27,184 life/health rates and forms received, compared with 30,945 in FY 2005
- 1,541 HMO rate and form filings received, compared with 1,557 in FY 2005
- 16,734 P&C rate and form filings received, compared with 18,665 in FY 2005
- 189 P&C rate and form filings processed, compared with 468 in FY 2005
- 372,164 images scanned for LHL, compared with 341,294 in FY 2005
- 673,276 images scanned for the P&C Program, compared with 577,997 in FY 2005
- 11,724 images scanned for DWC (scanning for DWC files began in FY 2006).

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

1991 -- Implementation of insurance reform legislation changed the way property and casualty insurance was regulated. The P&C Program implemented a file-and-use system for commercial property and general liability rate filings, a flex rating system for personal lines (property and automobile), and a prior approval system for individual company filings of policy forms and endorsements.

1992 – The P&C Intake Section was created to receive, process, and assign filings. To handle the large numbers of filings, the section developed a tracking system.

1993 – The Life, Health, and HMO Intake Section was created to handle, sort, and distribute Life/Health group mail, including filings.

1994 – The division overhauled the tracking system and installed it on the network. The system automatically assigns a unique number to each filing, calculates the “deemer” date where applicable, and maintains status and location of each filing. The system also generates management reports. Currently, the tracking system is available to all personnel in all applicable divisions.

2003 – The Life/Health division implemented SERFF and began accepting annuity forms electronically.

2005 – The section implemented a billing system for rate and form filing fees. The billing system accommodates paper filing fees as well as electronic filing fees. With the implementation of the billing system, the agency no longer requires the regulated entity to submit the fee with the filing; instead, the agency invoices the regulated entity submitting the filing by monthly itemized invoice.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

F&O affects insurers and advisory organizations filing rate and form filings in Texas.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

A Deputy Commissioner leads F&O. The division has two sections, the Life/Health and HMO Section and the P&C Intake Section.

Life/Health staff track filings using an Oracle system called PATK. The section processes and completes “exempt” filings. Exempt forms include life, accident, and sickness policy forms and annuity forms. The Texas Insurance Code exempts these forms from prior approval requirements, but stipulates that they must be filed before use in the state. All other filings are forwarded to the Life/Health and HWCN divisions for review and final action.

Regulated entities are billed for filing fees through a monthly invoice.

The P&C Intake Section screens P&C rate and form filings. P&C filings do not have a statutory requirement for filing fees. The form and rate filings are entered into an Oracle tracking system called TRACK. Staff process and complete “reference filings.” These are filings that reference a previously approved and accepted policy form, endorsement, or manual rule of another company/advisory organization, or that reference other filings with an assigned TDI number. All other filings are processed within one to two days and forwarded to the P&C Division for review and final action.

Filings Intake staff use the Internet to educate the industry. Staff often refer industry representatives to TDI’s website for various forms, checklists, and other documents.

Both the PATK and TRACK databases track rate and form filings, produce management reports, performance measure reports, and capture closed rate and form filings via VisiFLOW imaging software.

Both sections have documented procedures. The procedure manuals are updated as necessary.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

The Financial Program processes some HMO filings and associated filing fees that are similar to Life/Health and HMO Intake services. These include change in control of an HMO, dividend filings, and lists of officers and directors, biographical data, and reinsurance agreements.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Intake staff met with the Financial Program to discuss how to identify the fees processed by the LHL Program and the Financial Program. Administrative rules were amended to identify the filings subject to the agency's billing system.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Not applicable.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Life, Health, and Licensing – Life/Health Division
Location/Division	William P. Hobby Building, Tower I, 6 th Floor
Contact Name	Ana M. Smith-Daley, Deputy Commissioner
Actual Expenditures, FY 2006	\$1,830,125.94
Number of FTEs as of August 31, 2006	44

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Life/Health (L/H) Division reviews accident and health, life, and annuity forms and rates filed with TDI. During reviews, staff ensure that policies, contracts, certificates, and related insurance forms comply with Texas laws. Certain rates for accident and health insurance are also reviewed to ensure rates are reasonable in relation to the benefit provided. The division also reviews viatical and life settlement contracts and registers persons in the viatical and life settlement business.

The L/H Division's activities require detailed knowledge of Texas laws, which vary depending on the insurance product and the market in which it is being offered.

The review function requires staff to perform a comprehensive and detailed reading and understanding of the documents submitted by the various insurers. Over the past 10 years, more than 2,000 insurers have filed forms with the L/H Division. There are 344 persons registered as viatical/life settlement entities.

The L/H Division also performs the following activities:

- Assists the Financial Program in regard to companies having financial difficulties. This includes providing form and rate filings information and product expertise, assisting with complaints or concerns about specific companies under examination, withdrawing from a market, changing name, demutualizing, or involved in mergers or assumptions.
- Assists Legal Services' Policy Development Counsel in drafting preliminary rules to implement legislation and provides product expertise.
- Assists Enforcement by making referrals for noncompliance with form filing requirements, mandates, or state laws.
- Assists the Consumer Protection Program by providing actuarial reviews and opinions to resolve complaints on Medicare supplement, long-term care, and individual major medical policies; providing product knowledge on complaints pertaining to life, annuities, and other accident and health products or issues related to advertising; reviewing consumer publications; and making presentations to the public.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The L/H Division has consistently met or exceeded the target for the percent of forms completed in 90 days. The division has generally met the target for number of forms completed.

1.1.2. Outcome 3 – Percent of statutory rate and form filings completed within 90 days					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	91%	90%	87%	88%	88%
Annual Target	80%	80%	91%	91%	87%
Percentage of Target	113.93%	112.82%	95.60%	96.70%	101.15%

1.1.2. Output 1 – Number of Life/Health insurance filings completed					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	31,149	33,620	29,132	28,339	30,353
Annual Target	24,500	24,500	31,149	31,149	29,800
Percentage of Target	127.14%	137.22%	93.52%	90.98%	101.86%

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Not applicable.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

This function affects insurers that issue, use, or deliver accident and/or health, life, annuity, credit life, and credit accident and health, and nonprofit prepaid legal services in Texas, as well as consumers who purchase such products. The function also affects persons who sell their policies in the viatical/life settlement industry and persons who seek registration in that industry.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

A Deputy Commissioner leads the L/H Division. Following is a description of the division's form review process:

- The F&O Division and enters received forms into the agency's tracking system, PATK, and performs an initial screening of forms.
- F&O hand-delivers the filing to the L/H Division.
- L/H assigns forms to reviewers based on experience and product knowledge.
- L/H reviews forms in date-received order. On average, L/H has about 2,000 forms pending review.

- Currently, 31 specialists review and complete forms, actuarial memorandums and calculations, and rates.
- Final action occurs within 60 days of receipt, unless the company agrees to extend or waive the 60-day “deemer” date. The deemer date refers to the statutory provision that forms are “deemed” approved if TDI has not affirmatively approved or disapproved the form within 60 days of its received date.
- If a form under review has fewer than 10 noncompliant issues, staff contact the filer for corrections. If the form contains 10 or more noncompliant issues, staff will disapprove the form and send a letter to the filer explaining the reason for the disapproval.
- The Texas Insurance Code allows the commissioner to “exempt” certain forms from review, but not from filing or compliance. L/H specialists performs a random five percent audit of the forms filed as exempt to identify compliance with the law.

Filing Opportunities

Texas law provides the following filing opportunities for life, health, and annuity forms:

- **Review prior to use:** This provision requires industry to receive an affirmative approval before issuing, using, or delivering a form in the state. Final action occurs within 60 days of receipt, unless the company agrees to extend or waive the 60-day deemer date.
- **File-and-use:** This provision allows industry to issue, use, or deliver a form in the state upon filing with the agency. L/H staff by the 60th day must disapprove the form if it is found not to be compliant with the laws. Industry is required to file corrected forms for approval, and, once approved, issue corrected forms to consumers. If the forms are compliant, they are approved. If the form has fewer than the 10 noncompliant issues, the filer is contacted for corrections. If the form has 10 or more noncompliant issues, the form is disapproved. The company is required to correct noncompliant issued forms and cease issuing such forms until amendments addressing corrections are approved.
- **Exempt forms:** This provision requires industry to file certain forms, even though they do not require prior approval. Exempt forms completed within a day or two from receipt. Five percent of the exempted forms are audited. If found to be noncompliant, a noncompliant letter is issued requesting corrections to the form and the issued forms.
- **Exact copy of previously approved form:** Generally this option is used for sister company filings in which the only change is the name of the company.
- **Substantially similar to previously approved form:** These reviews are based on the certification that the only changes made to the form are underlined or noted with stricken text. Only the changed text is reviewed.
- **Matrix filings:** Paragraphs are assigned unique form numbers. Once approved, the company can use the filed paragraphs to create policies. The company has the responsibility to combine the paragraphs properly to create compliant policies.
- **Corrections to pending form:** This allows a company to make corrections to a pending policy based on objections raised in oral or written communication.
- **Resubmission of previously disapproved form:** This allows a company to make corrections to the policy based on the objections made on the disapproval letter.

Opportunities for Companies to Develop Compliant Products. The L/H Division continues to identify opportunities to assist industry in the development of compliant forms. Compliant forms do not require the extensive staff time required to note objections to filers and to process and review resubmitted forms.

L/H efforts to assist the industry include the following:

- making product checklists available on TDI’s website
- conducting compliance conferences to assist the industry
- discussing filings with companies
- including details in corrections and disapproval letters explaining the noncompliant issues to help companies make corrections.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency’s operations. Maintenance taxes and fees are the two main revenues that fund the agency’s appropriations to regulate the insurance and workers’ compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

The Interstate Insurance Compact (IIC) law is a model representing an agreement among member states to create, implement, and refine a streamlined system of insurance product regulation through the employment of national uniform product standards. It creates a multistate commission to receive, review, and make decisions on insurance product filings according to national uniform standards. The goal is to reduce the number of form variations a company must produce to meet each state’s specific product standards and to permit insurers to market approved products in all compacting states. IIC review of life, annuity, long-term care (LTC) and disability, and LTC and disability rates is a function similar to that performed by the L/H Division. The insurer has the option to decide where to file its forms. A description of the functions follows.

Both HWCN and the L/H Division review documents submitted by carriers pertaining to the issuance of health coverage in Texas. F&O receives and initially tracks filings for both divisions. HWCN and L/H review the forms to ensure compliance with Texas laws and regulations. However, the legal and regulatory requirements differ depending on whether the carrier issuing the product is a health maintenance organization (HMO) or an indemnity company. The HWCN division reviews filings pertaining to HMOs, and the L/H reviews filings pertaining to indemnity companies.

The Licensing Division and L/H both process applications submitted by individuals and companies in connection with their request to do business in Texas. Licensing performs this service for agents doing business in Texas. L/H performs this service for persons engaged in the viatical/life settlement business. Viatical/life settlement registrations require fingerprinting and a criminal background check. L/H forwards fingerprint cards to the Department of Public Safety and to the Federal Bureau of Investigation through the Licensing Division. Any issues with a criminal history are based on Licensing Division rules and its historical handling of specific issues.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

While the functions are similar, they are not duplicative. There have been discussions between the divisions to transfer the processing of viatical/life settlement brokers to the Licensing Division. Licensing is developing a work plan to enable the transfer. The transfer of this function will increase efficiency. It will also ensure consistency as some viatical/life settlement brokers also hold an agents license.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

L/H occasionally works with the Centers for Medicare and Medicaid Services (CMS) as the Medicare supplement product reviewed by the L/H Division is based on federal laws. L/H has been working recently with the Health and Human Services Commission (HHSC) and CMS on LTC awareness campaigns and the implementation of the LTC Partnership in Texas.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Statutory issues highlighted in the TDI's Biennial Report to the 80th Texas Legislature will assist L/H by providing direction on issues that have arisen in the form review process. These issues included eligible children, group policy amendments, noninsurance benefits, and arbitration.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

The purpose of viatical/life settlement registration is to protect consumers who sell their life insurance policies in that market. Prior to issuing registration, L/H performs a background check of the applicant. If the result is favorable, a two-year certificate of registration is issued. Regulated entities are required to file annual reports summarizing their activities. Staff review the reports to determine if the registered entity is complying with the law. Staff investigate noncompliance issues and, if appropriate, refer the entity to TDI's Enforcement Program or the Fraud Unit.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

The Consumer Protection (CP) Program handles most complaints. The L/H Division is only involved in the process when called on to respond to legislative complaints or when called on for product or actuarial assistance from CP.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Life, Health, and Licensing – Health and Workers’ Compensation Network Certification and Quality Assurance (HWCN) Division
Location/Division	William P. Hobby Building, Tower I, 3rd Floor
Contact Name	Margaret Lazaretti, Deputy Commissioner
Actual Expenditures, FY 2006	\$1,039,784.71
Number of FTEs as of August 31, 2006	29

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Health and Workers’ Compensation Network Certification and Quality Assurance Division (HWCN) regulates HMOs, certifies and regulates utilization review agents (URAs), certifies independent review organizations (IROs), assigns IRO requests, and certifies and regulates workers’ compensation health care networks. The division investigates complaints against these entities, conducts quality of care examinations, and reviews HMO and URA form filings. In 2006, the division began accepting applications from workers’ compensation health care networks (WC networks) and processing complaints relating to these networks. In 2007, the division will begin conducting examinations of the networks. The division has four core functions. The core functions are:

- **Compliance and Certification** – staff review and analyze forms and filings for HMOs, insurers offering exclusive provider plan (EPP) coverage, URAs, IROs, and WC networks; certify URAs, IROs, and WC networks; and register insurers and HMOs to conduct utilization reviews.
- **Complaints** – staff investigate complaints related to HMOs, URAs, IROs, and WC networks; and track complaints to identify issues that may require attention during routine examinations or a need for a bulletin, website announcement, or other educational tool.
- **Examinations** – staff examine HMOs, URAs, IROs, and WC networks. The division routinely examines HMOs based on their licensure date. The division may examine an HMO any time in the first three years of operation and no less than every three years thereafter. Staff conduct a desk review when an HMO requests a certificate of authority and may conduct an onsite examination before approving the certificate to ensure that the HMO has the appropriate infrastructure to start and sustain a health plan. Staff conduct another examination once the HMO has had members for one year. This allows staff to identify operational issues and allows the HMO to make corrections before there is a detrimental effect on the HMO’s members. If staff find problems or issues during the complaint process, the division may conduct an examination. The division may examine workers’ compensation health care networks in a similar manner, although the statute does not require specific timeframes. Initial examinations of WC networks will begin in 2007. URAs and IROs are also subject to examination as required by the Commissioner of Insurance.
- **IRO Assignment** – staff assign cases to certified IROs within one day of receipt of a request. The division assigns reviews to the 26 currently certified IROs on a rotating basis. This prevents “forum shopping” by insurance carriers and URAs to find an IRO that may be perceived to be more favorable. In 2006, the division began assigning requests related to WC networks in

addition to those regarding health carriers and HMOs. In 2007, the division began assigning requests related to non-network workers' compensation.

In addition, HWCN:

- assists in the development of rules
- responds to open records requests
- educates industry, provider, and consumer groups through bulletins, compliance workshops, manuals, checklists, and speaking engagements
- provides technical assistance to TDI staff regarding complaints, consumer publications, enforcement actions, and withdrawals from HMO and WC network markets
- provides technical assistance to external entities such as the Employees Retirement System, the Texas Department of State Health Services, the Texas Health and Human Services Commission, the Office of the Attorney General, the Texas Department of Mental Health and Mental Retardation, the Texas Commission on Alcohol and Drug Abuse, the Texas Department of Criminal Justice, the National Association of Insurance Commissioners, and the federal Centers for Medicare and Medicaid Services.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The division is converting its paper-intensive processes to electronic processes. Currently, most of the division's major functions are paperless, and others are pending conversion by TDI's Information Technology Services Division. Electronic processing improves efficiency and customer service. Stakeholders may submit URA annual reports IRO assignment requests online. Multiple agency programs, including Consumer Protection, Enforcement, and the Financial Program, can now view supporting documents. Staff can access electronic documents to provide information instantly to customers rather than first having to retrieve paper files.

HWCN has actively solicited stakeholder input. Staff participate in the Technical Advisory Committee on Claims Processing. The division has used input from stakeholders to develop rules, including prompt pay rules and a reporting process for carriers. HWCN solicits input on WC networks from a stakeholder group formed shortly after the Legislature authorized the networks. The scope of the group was expanded to include non-network issues after the network certification process was well under way. Stakeholder input was invaluable in the development of the rules and implementation of the network certification process. The group has also helped manage expectations during implementation by allowing the exchange of information and ideas about ways to streamline and improve the processes.

WC network outreach has expanded beyond the working group. The division publishes a network newsletter and distributes it electronically to several thousand stakeholders and via the agency website. Hits on the web version have steadily increased with each new issue. Other outreach activities include workshops, seminars, and conference calls. DWC staff, the Texas Medical Association, and the University of North Texas Small Business Development Program assist with many outreach activities. The division holds conference calls for system providers and certification applicants. Plans include development of another newsletter for HMOs and conference calls with other regulated entities.

The following performance measure data and other key statistics demonstrate the division's effectiveness:

Activity: Health Maintenance Organization Filings

1.1.2. Outcome 3 – Percent of statutory rate and form filings completed within 90 days					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	100%	100%	98%	97%	98%
Annual Target	80%	80%	91%	91%	87%
Percentage of Target	125.00%	124.94%	107.96%	106.59%	112.64%
Analysis/Variance Explanation	The HWCN Division has historically completed the majority of filings received in less than 90 days and typically completes form filings within 30 days in order to meet deemer dates.				

1.1.2. Output 2 – Number of HMO form and rate filings completed					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	2,446	2,026	1,596	1,538	1,577
Annual Target	2,900	2,900	2,446	2,446	1,300
Percentage of Target	84.34%	69.86%	65.25%	62.88%	121.31%
Analysis/Variance Explanation	The number of HMOs has declined significantly in Texas as a result of acquisitions, mergers, and financial issues. The decline in the number of HMOs has resulted in fewer filings. Compounding the situation is the fact that these acquisitions, mergers, and financial issues have occurred primarily in the basic service HMO realm. Basic service HMOs tend to submit more filings than single service HMOs. Thus, the impact of fewer HMOs is even greater because there are fewer basic service HMOs.				

1.2.1. Output 4 – Number of complaints against HMOs resolved					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	8,464	6,280	3,620	2,422	1,329
Annual Target	6,000	6,000	7,000	7,000	2,240
Percentage of Target	141.07%	104.67%	51.71%	34.60%	59.33%
Analysis/Variance Explanation	The HWCN Division resolved fewer complaints than targeted because it received fewer complaints. This may be attributable to a number of factors which include a shrinking market share for HMOs resulting in fewer enrollees. Additionally, increased knowledge about prompt pay requirements by HMOs and providers has resulted in fewer complaints.				

1.2.1. Efficiency 2 – Average time for HMO complaint resolution					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	13	10	9	6	9
Annual Target	20	20	18	18	10
Percentage of Target	64.40%	47.98%	48.01%	33.11%	90.00%
Analysis/Variance Explanation	The average time to resolve complaints is below target due to a lower number of complaints received. A shrinking market share may be contributable to fewer complaints. Additionally, increased knowledge about prompt pay requirements by HMOs and providers has resulted in fewer complaints. An efficient system and well trained staff have resulted in a timely resolution of complaints, resulting in performance that is lower than the target.				

1.2.2. Output 5 – Number of HMO quality assurance examinations conducted					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	23	28	22	16	22
Annual Target	21	21	12	12	12
Percentage of Target	109.52%	133.33%	183.33%	133.33%	183.33%
Analysis/Variance Explanation	The HWCN Division exceeded the annual target. A significant number of triennial examinations are conducted, which are statutorily required every three years. At times, triennials may be started in one fiscal year and completed in the next fiscal year.				

1.2.2. Efficiency 1 – Average cost per HMO quality assurance examination conducted					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	\$3,608	\$5,042.61	\$3,619.41	\$4,178	\$2,400
Annual Target	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
Percentage of Target	51.54%	72.04%	51.71%	59.69%	34.29%
Analysis/Variance Explanation	The average cost of conducting on-site exams was below the annual target. A large portion of the exam process is performed in-house resulting in lower travel costs. Additionally, more efficient processes and well-trained staff, reduces overall costs.				

Activity: Utilization Review Filings

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Applications Received	17	15	15	16	12
Registered Utilization Review Agents Approved	1	1	1	2	1
Certified Utilization Review Agents Approved	21	15	12	17	11
Certified URAs Renewed	76	97	103	81	78

Activity: IRO Applications

	FY 2003	FY 2004	FY 2005	FY2006
IRO Applications Received	1	4	4	8
IRO Applications Approved	1	3	3	6
IRO Renewals Approved	3	6	10	10

Activity: HMO Projects/Inquiries

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Projects/Inquiries Received	248	197	124	119	169
Projects/Inquiries Completed	248	197	124	117	171

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Regulation of HMOs

Originally, the functions that make up regulation of HMOs were separated into several functional areas in TDI, including Consumer Protection and the Life/Health Division. When the HMO division was created, the functions were centralized into that division, along with URA and IRO regulation. The consolidation has allowed HMOs to be regulated so that all aspects of the company except for the financial aspects are overseen by a relatively small group of staff who are able to share information readily. For instance, when a team goes onsite to examine an HMO, the team members have already been briefed about the status of form filings and complaints against the HMO. The team also receives input from the Financial

Program. This gives the team a well-rounded picture of the overall status of the company.

Regulation of IROs

TDI's original statutory duties (certification, assignment, and oversight) have not changed since the creation of IROs and will be needed as long as the Legislature desires to have an independent review process available.

Regulation of URAs

TDI's original statutory duties (certification and oversight) have not changed since the creation of URAs. They were regulated in Consumer Protection until 1993, when the function was moved to HWCN. As long as carriers and URAs make medical necessity determinations, certification and oversight will be needed.

Regulation of Certified Workers' Compensation Health Care Networks

The name of the HMO Division was changed in 2006 to reflect the new functions related to WC networks, and it became the Health and Workers' Compensation Network Certification and Quality Assurance Division. In January 2006, the division began receiving applications for certified workers' compensation health care networks. The first network was certified in April 2006. As of July 2007, there are 29 certified workers' compensation health care networks in Texas.

IRO Assignments for Health Insurance

The Legislature created the independent review process for Texas in 1997. The purpose of the process was to provide an independent review of medical necessity decisions that are adverse to enrollees. The functions regarding assignment of IRO reviews have not changed since inception.

IRO Assignments for Workers' Compensation Claims

The division began assigning IRO requests related to networks in 2006. Previously, the Division of Workers' Compensation (formerly the Texas Workers' Compensation Commission) assigned requests for non-network workers' compensation cases. TDI evaluated the IRO assignment process and determined that it would be more efficient and consistent if it were centralized in HWCN.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Compliance and Certification function affects any and all Texans covered under HMOs, health insurers that perform utilization review, workers' compensation carriers, and certified WC networks.

The Complaints function affects HMOs, URAs, IROs and WC networks in that complaints against these entities are addressed by HWCN staff. This function also affects insured Texans and Texans covered by a certified WC network.

The Examination function affects HMOs and certified WC networks and Texans covered by HMOs and certified WC networks.

The IRO Assignment function affects anyone covered by an HMO or certified WC network in Texas, as well as the HMOs and certified WC networks themselves.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Visio Flowcharts are available for review.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

HMOs are billed for certifications and examinations, as well as for each form filed with TDI. Each application for certification of a WC network must include the fee specified by statute. URAs and IROs must pay certification and renewal fees. WC networks will be billed for examination costs.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

HMO and WC network examinations are coordinated with the Financial Program. The Financial Program routinely examines HMOs regarding their financial status. Financial also performs market conduct examinations of carriers, which are similar to the examinations performed by HWCN, but they do not examine HMOs or WC networks.

The L/H Division reviews forms filed by insurance companies other than HMOs which, at times are identical or very similar to those filed by an HMO, resulting in a coordinated review between the two divisions. However, the statutory timelines for reviews of forms completed in Life/Health are different from those completed by HWCN.

Complaint Resolution and Customer Service (CRCS) at DWC handle complaints related to non-network workers' compensation. All complaints related to certified workers' compensation health care networks and HMOs, URAs, and IROs are handled by HWCN. Consumer Protection also handles complaints related to a variety of insurance products in Texas. There is no overlap among the areas regarding the type of complaints handled.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The exams conducted by HWCN and Financial are separated by specific area of responsibility to avoid duplication.

While HWCN and Life/Health may review the same or similar forms submitted by a company, the statutes and rules that the forms are reviewed against are not the same. The divisions coordinate review of identical documents. Therefore, there is no duplication of effort.

Staff follow written procedures and receive training to assure that complaints are handled by the appropriate program area. Two charts, "SORT for Success" and "Overview of Complaints Processing," that include information about TDI program areas and the types of complaints they handle are available for review. All areas handling complaints follow a consistent process, which was established by an agencywide complaint workgroup. The *High Level Complaint Process Framework* and supporting complaint procedures are available for review.

HWCN coordinates its examinations of HMOs that contract for Medicaid and CHIP products with HHSC, and the agency has recently entered into an MOU with HHSC regarding the examination function.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The division shares complaints against HMOs contracted by Medicaid and CHIP with HHSC. If issues arise regarding the HMOs with either agency, the other agency is contacted.

Employee Retirement System (ERS) complaints about HMOs are reported to ERS.

Medicare complaints that reach the agency are referred to the contracting HMOs at the request of CMS. No investigation is performed by HWCN. HWCN does not perform examinations of HMOs that are Medicare contractors because CMS has authority.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

HMO Regulation

HMOs apply for a certificate of authority through the TDI's Financial Program. The HWCN Division participates in the review of the HMO's form filings, network adequacy, quality improvement program, and utilization review program. After TDI issues the certificate of authority, HWCN monitors the HMO's operations, investigates complaints against the HMO, and performs quality of care examinations at statutorily mandated intervals. Staff refer the HMO to Enforcement for noncompliance with statutory requirements. Enforcement investigates the referral and can take actions that range from a letter of reprimand to administrative fines and ultimately to revoking the HMO's certificate of authority.

URA Regulation

Utilization review agents determine the medical necessity and reasonableness of services requested by physicians or other providers. If the URA determines the requested service is not medically necessary or reasonable, the carrier will not pay for it, and the patient must then pay for the service out of pocket. The decision to deny requested services based on medical necessity or reasonableness is known as an adverse determination. To protect the patient (or injured employee), statute includes consumer protections that URAs must follow.

TDI evaluates URAs at the time of certification and upon renewal to ensure URAs have procedures that meet statutory requirements. If the URA changes procedures in the interim between certification and renewals, it is required to file the changes with TDI. URAs must submit an annual report to TDI that includes aggregate information about adverse determinations and complaints. Staff review the annual reports and monitor complaints submitted to TDI to determine whether a URA needs more in-depth review. Such review may be a desk review of files or an onsite examination, generally in conjunction with contracting carriers of the URA.

If staff identify noncompliance as a result of the monitoring or review of a URA, they refer the URA to the Enforcement Program. Enforcement investigates the referral and can take actions that range from a letter of reprimand to administrative fines and ultimately to revoking the URA's certification.

Complaints against URAs are handled through the agency complaint process. Since a URA must either be a licensed carrier, an HMO, or be contracted with one of those entities, complaints are typically entered against both entities. Complaints are tracked for patterns of behavior, and results are used to determine further regulatory action.

IRO Regulation

The Legislature created the IRO process in 1997. IROs review appeals of adverse determinations regarding medical necessity or reasonableness. IROS are independent of carriers and URAs making medical necessity determinations. In addition to regulation of the certification process, HWCN assigns requests to IROs on a rotating basis. This prevents insurance carriers and URAs from attempting to have an appeal reviewed by an IRO that may be perceived to be more favorable.

IROs are evaluated at the time of certification and renewal to ensure that they meet statutory requirements. If an IRO changes procedures in the interim between certification and renewals, it must file the changes with the division. Division staff review the decision reports and monitor complaints to determine whether an IRO needs more in-depth review. The review may be a desk review of files or an onsite examination.

If staff identify noncompliance during the monitoring or review of an IRO, they refer the IRO to TDI's Enforcement Program. Enforcement investigates the referral and can take actions that range from a letter of reprimand to administrative fines and ultimately to revoking the IRO's certification.

Complaints against IROs are handled through the agency complaint process. Complaints are tracked for patterns of behavior. Results are used to help determine further regulatory action.

WC Network Regulation

HWCN began accepting applications for WC network certification in 2006. During the certification process, the applicant is evaluated for network adequacy, financial solvency, compliant contracting processes with providers and carriers, quality improvement program, and credentialing program for providers. The requirements are similar to those for HMOs and contain similar consumer protections. It is critical that the networks be monitored closely for compliance with the requirements.

In addition to the evaluation during the certification process, HWCN staff evaluate additional filings by certified networks and monitor complaints received about them. The division will begin routine examinations of networks in 2007 to ensure that they are in compliance with the statutory requirements. The division is currently evaluating annual quality improvement reports submitted by certified networks. Division staff coordinate with the Research and Evaluation Group to receive information about studies that are being done in preparation for the report cards, which will be published in September 2007.

If staff identify noncompliance during the monitoring or review of a WC network, they refer the network to the Enforcement Program. Enforcement investigates the referral and can take actions that range from a letter of reprimand to administrative fines and ultimately to revoking the network's certification.

Complaints against WC networks are handled through the agency complaint process. Complaints are tracked for patterns of behavior. Results are used to help determine further regulatory action.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

The chart below includes information for IROs, URAs and HMOs.

Texas Department of Insurance, HWCN Division		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities, FY 2005 and 2006		
	FY 2005	FY 2006
Total number of regulated entities	268	300
Total number of entities inspected	16	23
Total number of complaints received from the public	3,028	2,095
Number of complaints pending from prior years	0	3
Number of complaints found to be non-jurisdictional	137	277
Number of jurisdictional complaints found to be without merit	1,683	972
Number of complaints resolved	3,298	1,446
Average number of days for complaint resolution	6	9

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Legal Services Program
Location/Division	William P. Hobby Building, Tower I, 10th Floor
Contact Name	Sara Shiplet Waitt, Senior Associate Commissioner
Actual Expenditures, FY 2006	\$2,269,064.45
Number of FTEs as of August 31, 2006	39

B. What is the objective of this program or function? Describe the major activities performed under this program.

Legal Services counsels the agency on all matters, including operations, personnel, contracts, open records, and policymaking. The program interprets statutes; drafts rules, opinions, and bulletins; and assists the Financial Program with financial and receivership matters.

Legal Services has three sections, Agency Counsel, Financial Counsel, and Policy Development Counsel. The major activities of each section follow.

Agency Counsel provides legal services to the Commissioner of Insurance, the Commissioner of Workers' Compensation, and agency staff. These services include:

- advising the agency on applicable state and federal employment laws
- drafting bid documents and monitoring agency contracts
- overseeing the agency's open records process
- drafting rules for the Administrative Operations Division
- reviewing and revising TDI's policies and procedures manuals.

Financial Counsel provides legal services to the Financial Program and other agency programs. Services include:

- interpreting statutes, rules, and case law
- drafting and reviewing orders, rules and potential legislation
- assisting in the establishment of tax rates
- advising on company financial examination issues, administrative appeals, and other issues related to oversight of financially troubled companies
- representing and advising the Commissioner as receiver.

Policy Development Counsel provides legal services to TDI's Life, Health, and Licensing; Property and Casualty; and Consumer Protection programs and to the Division of Workers' Compensation. Assistance provided includes:

- interpreting statutes, rules, and case law
- drafting rules, bulletins, and potential legislation
- reviewing agency publications for legal accuracy.

General Management is the agency’s liaison to the National Association of Insurance Commissioners. This function involves coordinating coverage of various committee meetings and communicating the agency’s position on issues.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Legal Service’s effectiveness is demonstrated by the lack of negative consequences to the agency. No rule or regulatory bulletin drafted by Legal Services has been successfully challenged in the past decade. Contracts and personnel actions generally occur without incident. In addition, Legal Services responds to a large number of open records requests within statutory deadlines and with a high degree of customer satisfaction.

Agency Counsel

The following statistics for fiscal years 2006 and 2007 (through June) demonstrate Agency Counsel’s effectiveness:

- Open records requests: 5,172 and 10,808
- Subpoenas: 187 and 198
- Citations: 367 and 217
- Requests for representation by the OAG: 85 and 67
- Orders for appointments to advisory boards and committees: 58 and 18
- Contract review and negotiation: approximately 500 for each fiscal year.

To measure customer satisfaction with the open records process, Agency Counsel conducted customer service surveys in 2004 and 2006. Eighty-seven percent of respondents rated TDI’s open records services as “very good” or “good” in 2004. In 2006, 92 percent said they were “very satisfied” or “satisfied” with the service received. The 2006 survey asked respondents to compare TDI with other state agencies. Sixty percent indicated that working with TDI was “much better” than working with other state agencies.

Financial Counsel

Financial Counsel handles approximately 150 assignments from the Financial Program at any given time. Additionally, Financial Counsel reviews approximately 90 orders each quarter, including orders granting charters and certificates of authority, orders related to the structure of insurance companies, and orders approving or denying changes of administrative control of insurance entities.

Financial Counsel has a performance measure counting the number of days from when a company is identified as “at risk” to the date of regulatory action. The section routinely exceeds the target for the measure. The following table reflects a five-year performance history.

2.1.1 outcome 4 – Average number of days from company “at risk” identification to the date of solvency-related regulatory action					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	31	15	24	15	23
Annual Target	42	42	31	31	31
Percentage of Target	73.80%	35.71%	77.42%	48.39%	74.19%
Analysis/Variance Explanation	These actions did not require notice of hearing; therefore, TDI was able to take action immediately, resulting in fewer days than the target, which is favorable for this measure.				

Policy Development Counsel

Agency programs typically request Policy Development Counsel to provide legal opinions and responses to legal-related inquiries. The section handles responses to approximately 150 requests at any given time.

Policy Development Counsel drafted:

- 24 rules in FY 2006 and 22 rules through June FY 2007
- 30 bulletins in FY 2006 and two bulletins through June FY 2007.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

2006 – The Commissioner of Insurance created two separate programs, Legal Services and Enforcement, in recognition of the separate services these divisions provide the agency. Legal Services focuses on policy issues affecting the insurance industry.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Legal Services impacts the following persons and entities:

- Agency staff = 1,627.1 as of August 31, 2006
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses
- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas).

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Legal Services Program is led by a Senior Associate Commissioner. Each section is managed by a Section Chief.

Legal Services trains attorneys in various ways. New attorneys are mentored by more experienced lawyers and experts from program areas. Continuing legal education requirements are met through a contract with the State Bar of Texas. TDI also provides specialized training on management and other issues. Legal Services will conduct a survey in the summer of 2007 to determine additional training needs.

Legal Services receives formal referrals and informal requests for assistance. The Section Chiefs work closely with program staff to establish priorities and address issues. TDI's Compliance Intake Unit (CIU) receives formal referrals, opens case files, and enters the referrals into the Case Tracking System for assignment to the appropriate Legal Services section. Upon completion of assignments, staff attorneys notify CIU and the applicable programs to close the cases.

Informal requests are routed directly to the Section Chief or a staff attorney who is familiar with a particular issue. In some sections, if it appears that an informal request may take more than four hours or may involve a complex issue, the Section Chief or the assigned staff attorney may request a formal

referral from the program. Legal Services is evaluating potential process improvements for tracking assignments.

Staff attorneys refer to the TDI Rule Form and Procedures Manual for agency procedures regarding rule proposals and adoption orders, regulatory orders, hearing notices, and bulletins.

Legal Services follows written procedures for reviewing orders drafted by the programs. Financial Counsel staff also follow written procedures to track allocation of staff time. This tracking allows Financial Counsel to recover expenses from companies that are successfully rehabilitated. Legal Services relies on specific statutes and rules to define case parameters and refers to its forms library and previously drafted letters, orders, and memos.

Legal Services staff participate in agency workgroups and in the Financial Program's Recommendation Committee and Rehabilitation Planning Team. Agency workgroups include the Complaints Workgroup, the Texas State Disaster Coalition, and the Senior Action Team. The Recommendation Committee is an ad hoc group to address a specific company that appears to be in hazardous financial condition. The Rehabilitation Planning Team meets regularly to assess the status of companies that are the subject of administrative proceedings.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

The salaries of employees who work on receiverships are paid from the receiverships' assets. Funds maintained under Texas Insurance Code, Article 21.28, Section 8(j), pay for activities that are not chargeable to the receivership and for activities performed for receiverships with insufficient assets to pay expenses. These funds are derived from claim payments that have been abandoned by their owners under TIC Article 21.28, Section 8(i).

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

The following internal programs perform services similar to the Legal Services Program:

TDI and DWC General Counsels

TDI's General Counsel reviews and advises the Commissioner of Insurance on agency rules, bulletins, and orders that have been drafted and prepared by staff attorneys in the Legal Services Program. The General Counsel serves as the Commissioner's direct representative. The General Counsel review supplements the legal work performed by the Legal Services Program. It provides an opportunity for the General Counsel to ask questions and correct any issues before presenting an item to the Commissioner of Insurance. The DWC General Counsel performs similar activities for the Commissioner of Workers' Compensation.

Enforcement

The Enforcement Program pursues administrative action to address violations of statutes or regulations by regulated entities. In pursuing a company for noncompliance, Enforcement must interpret rules, bulletins, and legislation. Generally, Legal Services has previously interpreted – and sometimes written – the rules, bulletins, and legislation. Legal Services and Enforcement work together to maintain consistent positions on these matters.

Division of Workers' Compensation (DWC)

DWC's Legal Services Section provides legal services similar to those of TDI's Legal Services Program. TDI's Legal Services Program provides support for the entire agency, including DWC. In contrast, DWC Legal Services functions are limited to workers' compensation issues and provisions of the Texas Labor Code. TDI's Agency Counsel Section provides legal advice to the Commissioner of Workers' Compensation and DWC staff regarding internal agency operations, including personnel matters, open records requests, and contracts. Legal Services, particularly Policy Development Counsel, often serves as a resource to DWC for rulemaking and drafting bulletins and proposed legislation.

Other TDI programs

Other agency programs perform some similar activities to Legal Services. For instance, program staff may write a first draft of rules and bulletins related to their technical area. Legal Services then reviews and revises these for compliance with rules, statutes, and agency policy. Each TDI program has staff to respond to open records requests. To ensure consistency and compliance with applicable laws, Legal Services coordinates the agency's open records process, including billing and tracking.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Legal Services regularly coordinates activities with the General Counsels, Enforcement, DWC, and other agency programs.

General Counsels

General Counsel reviews supplement the legal work performed by Legal Services. They are an additional level of review that contributes to the effectiveness of the agency.

Enforcement

The Legal Services and Enforcement Programs meet monthly to discuss issues that may affect both divisions. Additionally, Enforcement circulates "major case memos" that address significant enforcement cases. This allows Legal Services to review Enforcement's legal stance in these cases.

Division of Workers' Compensation

Agency Counsel meets regularly with DWC representatives, including the DWC General Counsel, on legal issues to avoid duplication or conflict.

Other TDI programs

Legal Services reviews rules and bulletins initiated by other program areas. Agency Counsel meets regularly with the open records liaisons in the program areas to discuss policies, procedures, and other pertinent information.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Agency Counsel staff attend the monthly State Agency Coordinating Council (SACC) Legal Subcommittee meetings. Staff also regularly coordinate with counterparts at other state agencies.

Legal Services occasionally seeks advice from the OAG, particularly on issues that are controversial or that could result in litigation. In accordance with state law, the OAG represents TDI in state and federal court. Legal Services works closely with the OAG on these cases. Agency Counsel oversees compliance with open records provisions and routinely contacts the representatives of the OAG's Open Records Division.

Legal Services occasionally works with other federal and states agencies on discreet issues. These agencies include:

Federal:

- U.S. Department of Agriculture, Federal Crop Insurance Corporation
- Centers for Medicare and Medicaid Services
- National Institute of Occupational Safety and Health
- U.S. Department of Labor.

State:

- Office of Public Insurance Counsel
- Office of Injured Employee Counsel
- Office of the Comptroller
- Health and Human Services Commission
- Department of Assistive and Rehabilitative Services
- Department of State Health Services
- Department of Aging and Disability Services
- Department of Banking
- State Office of Administrative Hearings
- State Office of Risk Management
- Texas Workforce Commission
- Texas Medical Board
- Department of Housing and Community Affairs.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2006;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Property & Casualty Program, General Management
Location/Division	William P. Hobby Building, Tower I, 5th Floor
Contact Name	CH Mah, Senior Associate Commissioner
Actual Expenditures, FY 2006	\$350,100.66
Number of FTEs as of August 31, 2006	5

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Property & Casualty (P&C) Program monitors a wide range of property and casualty insurance lines; reviews form and rate filings; explores ways of cutting insurance costs by reducing losses; reviews and analyzes statistical data; and prepares reports on insurance rates and markets to assist policy makers and consumers with insurance-related decisions. P&C comprises the following areas:

- General Management Section
- Personal and Commercial Lines Division
- Inspections Division
- Title Division
- WC Classification and Premium Calculation Division
- Property & Casualty Actuarial Division
- Data Services Division.

Each division of the P&C Program is discussed in detail in a separate Section VII response. General Management's Section VII response addresses program-wide activities and items specific to general management.

P&C's objective is to:

- ensure qualified review of market data and filings for the various property and casualty lines of insurance and products to promote rates and forms that are in compliance with applicable laws that are not excessive, inadequate or unfairly discriminatory;
- perform accurate, cost-effective data collection and analysis to promote competitive markets and informed decisions by policy makers and consumers while educating consumers and the industry on compliance requirements;
- promote loss mitigation efforts to ensure the people of Texas a viable and competitive market where insurance is both available and affordable; and
- establish mechanisms to help consumers attain access to standard and preferred personal and commercial lines markets.

The P&C staff philosophy is to fulfill these objectives by:

- maintaining strict standards for data accuracy and reliability, as the quality of raw data will dictate the quality of the work product;
- providing consistent and accurate information and service to customers in a prompt, respectful

- and courteous manner;
- providing highly-qualified review and analysis of forms, rates and data, so that regulatory decisions and policies relating to property and casualty products may be made with confidence;
- carefully balancing timeliness, efficiency and cost-effectiveness, remembering that in order to be of service to the state and its citizens, staff must be responsible in the use of resources;
- treating all fellow workers, both inside and outside the program, with the highest degree of professionalism, courtesy and cooperation;
- continually improving skills and knowledge, recognizing that the P&C Program cannot effectively monitor or regulate the industry if it fails to develop itself professionally to keep pace with the industry and the public;
- using innovative processes and exploring changing technology to perform functions in order to help the agency lead the industry in the most positive and productive direction.

The following paragraphs outline key functions of P&C and how the program contributes to TDI-funded goals and strategies.

Strategy 1.1.1 Consumer Education and Market Analysis

P&C conducts in-depth analyses of the Texas insurance market and performs special studies to assist the agency, policy makers, and the public. In addition to data collected in TDI's statistical plans, P&C Actuarial staff use data calls and information requests to prepare market analysis and to provide answers to a variety of questions related to the marketplace. Monitoring the marketplace is a statutory duty.

Personal and Commercial Lines Division staff maintain various resources for consumers on the TDI website. These resources are designed to educate consumers on various personal and commercial lines of insurance as well as provide assistance when shopping for insurance. Examples include: Helpinsure.com; Bond Resources; Medical Malpractice Insurance Shopping Guide; Frequently Asked Questions related to property and casualty insurance; and various information describing different types of insurance such as mortgage guaranty insurance.

Personal and Commercial Lines Division staff also make presentations to various consumer, charity, civic and trade groups on topics such as homeowners, renters, commercial property, automobile insurance, and medical professional liability insurance.

Strategy 1.1.2 Rates, Forms, and Licenses

The Texas Insurance Code, Chapters 2501-2704, provide that title insurance shall be 'completely regulated' to protect consumers and provide a reasonable rate of return to companies and agents.

The Title Division assists with the following statutory duties:

- defining the requirements of abstract plants
- prohibiting rebates
- working with the Texas Title Insurance Guaranty Association
- processing applications for title agent and escrow officer licenses, renewals, cancellations, disciplinary actions, and revocations
- promulgating rules, rates and forms
- conducting field audits of title agent records
- processing consumer complaints and industry inquiries.

The P&C Actuarial Division provides actuarial review of rate and rating plan filings and credit score models (Texas Insurance Code, Chapters 2251 and 559, respectively).

Prior approval of individual insurer filings of policy forms and endorsements is required pursuant to Texas Insurance Code, Chapter 2301. Staff in the Personal and Commercial Lines Division review policy forms and endorsements for compliance with statutory and/or rule requirements and verify that the filings do not contain provisions, titles, or headings which are unjust, encourage misrepresentation, are deceptive, or violate public policy. The prior approval system for policy forms and endorsements enables TDI staff to ensure that there is no potential harm to consumers when the policy forms and endorsements are introduced in the marketplace.

Strategy 1.1.3 Promote Underserved Coverages

The promotion of underserved markets includes the improvement of availability for residential property and private passenger automobile coverage by identifying underserved markets through monitoring the marketplace and marketplace analysis. In addition to gathering and analyzing residential property and private passenger automobile coverage data, TDI has statutory requirements related to the identification of underserved areas.

- *Residential Property Insurance*
Texas Insurance Code, Chapter 2211, includes a provision for the commissioner of insurance to designate underserved areas for eligibility to the Fair Access to Insurance Requirements (FAIR) Plan Association. The FAIR Plan Association is an entity that provides residential property insurance to qualified consumers who are having difficulty obtaining residential property coverage from licensed insurance companies. Additionally, TDI maintains a website, HelpInsure.com, which allows homeowners having difficulty finding coverage to post information for companies and agents providing coverage in their area.
- *Private Passenger Automobile Insurance*
Texas Insurance Code, Chapter 2151, requires TDI to identify underserved areas for automobile coverage and requires the insurer of last resort, the Texas Automobile Insurance Plan Association (TAIPA), to offer incentives for insurers to offer coverage in underserved areas. TAIPA was created by the enactment of House Bill (HB) 1461, 73rd Legislature, Regular Session, effective September 1, 1993. TAIPA provides for the assignment of insurance to an authorized insurer for a person required by the Texas Transportation Code to show proof of financial responsibility.
- *Windstorm Insurance*
The agency addresses insurance market availability for wind and hail insurance through the Texas Windstorm Insurance Association (TWIA). TWIA was established by the Legislature in 1971 to provide wind and hail coverage to residents and businesses in designated catastrophe areas that are unable to obtain such coverage in the voluntary market (Texas Insurance Code, Chapter 2210).
- *Medical Professional Liability Insurance*
The agency addresses insurance market availability for medical professional liability insurance through the Texas Medical Liability Insurance Underwriting Association (JUA). The JUA was established by the Legislature in 1975 to insure physicians and other eligible health care providers who are unable to obtain such coverage in the voluntary market (Texas Insurance Code, Chapter 2203).

Strategy 1.2.1 Resolve Complaints; Strategy 1.2.2 Investigation and Enforcement

These two strategies are concerned with complaints, recovering valid claims for consumers, and reviewing questionable trade practices. Five agency programs: Consumer Protection (CP); Fraud Unit; Enforcement; Life, Health, and Licensing (LHL); and P&C work together to accomplish strategic goals and measures. CP resolves complaints, the Fraud Unit investigates allegations of fraud such as those arising from complaints, and the Enforcement Program enforces rules and takes action against violators. These programs, together with divisions within the P&C Program and the LHL Program, respond to complaints, assist consumers in recovering valid claims, investigate patterns of questionable trade practices, and bring enforcement actions as appropriate.

Strategy 3.1.1 Loss Control Programs

This strategy specifically addresses the need to find methods to reduce claims against insurers through reduced losses, resulting in lower premiums for consumers. It should be noted that TDI's role in reducing losses is primarily oversight responsibilities to ensure compliance with effective risk control practices such as reviewing insurers' loss control programs or compliance with wind resistant building codes. In general, there are four areas of loss control that are monitored by the agency:

- commercial lines
- commercial property oversight
- amusement rides
- windstorm protection.

The agency reviews insurer required loss control programs for certain commercial lines of insurance, reviews fire rating risk classifications for commercial property, oversees inspection and insurance requirements for amusement rides, and issues certificates of compliance for wind resistant structures in coastal areas. P&C's Windstorm Inspections Section issues certificates of compliance, which are an eligibility requirement for wind and hail coverage with TWIA and are designed to mitigate potential losses.

The strategy also includes loss control inspections performed by TDI. These inspections evaluate the insurance companies' loss control programs, which insurers establish to aid commercial policyholders in reducing losses. Mergers and acquisitions within the industry also affect this activity. As smaller companies are merged with existing groups, the loss control program used by the parent group is usually adopted. As larger insurance companies tend to have more sophisticated, effective loss control programs, mergers tend to result in policyholders having access to more effective loss control programs that may result in reduced losses for the policyholder and reduced claims against the insurer.

A related loss control issue is P&C's oversight of commercial property inspections by the Insurance Services Office (ISO) to set commercial property risk classifications which affect policyholders' premiums. The agency provides oversight to ensure that commercial property owners receive the appropriate risk classification for their properties, which relates to a variety of issues, including construction materials and safety measures such as sprinklers and hazards associated with the use of the property. While oversight of commercial inspections does not directly impact potential losses, it ensures that commercial property owners' rates accurately reflect risk, providing an economic incentive for the property owners to implement policies and procedures to lower that risk.

TDI has limited authority over the regulation of amusement rides. The agency is authorized to review the inspections and certificates of inspection held by ride operators. The enforcement of amusement ride inspections and insurance requirements rests with law enforcement authorities.

A major activity performed by P&C is responding to open records requests. In FY 2006, P&C divisions processed 2,302 open records requests representing 34 percent of all open records requests processed by TDI and the Division of Workers' Compensation (DWC).

General Management Section

Led by a Senior Associate Commissioner, the P&C General Management Section provides program-wide management and operational support, including strategic and budget planning; responses to legislative requests; research assistance, including Geographic Information System (GIS) mapping and demographic analysis; project management; and administrative support including report and presentation preparation for the program and agency.

In addition, General Management is responsible for the production of the Community Investment Report, a biennial report mandated by Texas Insurance Code, Section 425.107. All foreign and domestic life and health insurers with \$10 million or more of written premium are required to report Texas-only investments in real estate, commercial mortgages, residential mortgages and development bonds, and have the option to report on investments in Texas through federal agencies such as the Federal Housing Administration (FHA), Texas corporate stocks and bonds, deposits in Texas financial institutions, and contributions and other social investment programs. The General Management Section is responsible for issuing the data call, compiling and analyzing the responsive data, and producing the report prior to each Legislative Session.

General Management also oversees the implementation of Senate Bill (SB) 1670, the motor vehicle financial responsibility verification program established by the 79th Legislature, Regular Session. Texas Transportation Code, Section 601.452 provides that TDI, in consultation with the Texas Department of Public Safety (DPS), the Texas Department of Transportation (TxDOT) and the Texas Department of Information Resources (DIR) "shall establish a program for verification of whether owners of motor vehicles have established financial responsibility." The agency, in conjunction with TxDOT, DPS and DIR, contracted with a third party vendor to collect and compare information on registered vehicles, licensed drivers, and insurance policies in the state. This program is currently in development and is expected to be integrated with law enforcement processes early in 2008. As the lead agency, TDI serves as contract administrator for the term of the contract and any future contracts. Duties include:

- acting as project and program manager, overseeing the development and continued successful operation of the program by the vendor, TxDOT and DPS;
- working with TDI's Information Technology Services Division to coordinate the Texas Project Framework deliverables and report to the Quality Assurance Team as part of the project framework; and
- processing and certifying invoices for payment, monitoring vendor expenses, and forwarding certified invoices to TxDOT for payment.

Additionally, the General Management Section works with Texas insurers writing automobile insurance policies to ensure compliance with regulatory requirements related to the Financial Responsibility Verification Program.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

P&C's General Management Section provides program-wide management and operational support, which contributes to the overall effectiveness and efficiency of each program division.

The 78th Legislature passed SB 14, which substantially reformed property and casualty insurance rate regulation in Texas, resulting in more affordable rates for consumers. P&C responded to this significant policy change by successfully and timely reviewing the resulting rate and form filings. To ensure effective implementation and communicate changes to the industry and public, P&C created a resource page on TDI's website and updated *Filings Made Easy* manual to address statutory changes.

Improvements to forms processing have positively impacted industry's satisfaction with P&C. P&C streamlined processes to make a significant improvement in form processing timeliness, despite staff reductions. In FY 2006 over 95 percent of the 11,553 form reviews were completed within 90 days. This reflects a significant increase over the 71 percent of the 10,383 form filing reviews completed within 90 days in FY 2000.

In FY 2000, P&C had 181.9 allocated FTEs. By FY 2006, the program reduced staff to 128.75 FTEs, while striving to maintain high levels of productivity and customer satisfaction. To measure performance, P&C's General Management Section reviews TDI's Customer Satisfaction Survey results for opportunities to improve services and processes.

In August 2006, the Agency Counsel Section of TDI's Legal Services Program sent a customer service survey to requestors that submitted open record requests during FY 2005. Most of the responses received were from representatives of insurance companies. Seventy-two percent of respondents indicated that TDI provided "very good" service and 90 percent indicated that the request was completed by the specified due date. The results reflect the professional and timely service provided by P&C, which handles just over one-third of TDI's open record requests.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The following presents significant program-wide history for the Property and Casualty program. Note that the history is detailed by fiscal year.

1992 - A number of separate Property & Casualty activities were combined into one, including moving Statistical and Rate Development from the Commissioner's Office to P&C.

1992 - As a result of legislative changes, new rating systems were introduced that gave companies more flexibility in offering a wide array of prices to consumers. Texas implemented a file and use system for commercial property and general liability rate filings, a flex rating system for residential property and automobile (both commercial and private passenger), and a prior approval system for individual company filings of commercial property and general liability policy forms and endorsements.

1992 - Detailed Claim Information (DCI) was established to collect workers' compensation claim information as required by Texas Insurance Code.

1993 - Companies required to maintain their own experience rating data calculate their own modifiers,

activities, which had previously been the responsibility of the Texas Automobile Insurance Service Office (TAISO).

1993 - Statistical and Rate Services became a separate activity, incorporating parts of the present-day Property & Casualty Actuarial and Data Services divisions.

1993 - The commissioner privatized the calculation of workers' compensation experience modifiers and transferred the function to the insurance carriers writing workers' compensation coverage.

1994 - Technical Analysis organized as a separate activity to review and analyze statistical data and prepare reports on insurance rates and markets to assist policy makers and consumers with insurance-related decisions.

1995 - TDI adopted nationwide rating schedules for commercial property, utilizing the Insurance Services Office (ISO) Public Protection Classification (PPC) program to replace key rates. It also implemented an oversight inspection program for commercial property to ensure fair and equitable fire coverage and accurate PPCs statewide.

1995 - Title insurance functions were relocated from several areas of the agency to create one section under Property/Casualty Insurance Lines.

1995 - Recruitment of a Fellow of the Casualty Actuarial Society as Chief Actuary and an Associate of the Casualty Actuarial Society as a Senior Actuary expanded the program's actuarial expertise.

1996 - The National Council of Compensation Insurance (NCCI) was appointed as the Texas workers' compensation statistical agent.

1996 - The Texas Insurance Checking Office (TICO) was designated as the Statistical Agent for personal lines and Insurance Services Office (ISO) was designated statistical agent for commercial lines.

1997 - The Residential Property Insurance Market Assistance Program (MAP) was established to assist consumers in underserved areas in finding insurance for their homes.

1997 - The Inspection and Fire Safety Section implemented a new Voluntary Inspection Program (VIP) as adopted by the 1995 Legislature to provide homeowners with a "certificate of insurability" if their home passes an inspection by a credentialed inspector qualified by TDI.

1997 - The Windstorm Building Code for Windstorm Resistant Construction was adopted by the Commissioner of Insurance in June 1997 with an effective date of September 1998.

1998 - The Commercial Property/Casualty division was created by eliminating separate sections for commercial property, professional liability, general liability, and bond, crime, and glass.

1998 - The Automobile Insurance Market Assistance Program (MAP) was established to assist consumers in underserved areas in finding automobile insurance.

1999 - Licensed engineers allowed by rule to serve as windstorm inspectors if they meet necessary qualifications.

2000 - Regulation, Safety and Technical Analysis programs combined to create the present-day structure of the Property & Casualty program. The remaining division of Regulation and Safety formed the present-day Life, Health and Licensing program.

2000 - The Residential Property Insurance Market Assistance Program (MAP) Plan of Operation was amended to allow property owners to apply directly to TDI rather than through an agent.

2000 - The Automobile Insurance Market Assistance Program (MAP) application was placed on the TDI's website so good drivers living in underserved ZIP codes can apply for lower-priced car insurance through the state's automobile insurance Market Assistance Program (MAP) via the internet.

2001 - Legislation changed the system for establishing benchmark rates from requiring a contested rate hearing before the State Office of Administrative Hearing to a system with a non-contested hearing before the Commissioner of Insurance.

2002 - TDI held informational hearings on mold coverage provided in Texas residential property insurance policies to gather information and comments on the extent to which mold coverage should be provided in Texas homeowners policies. Related activities included:

- Consulting with a 19-member Mold Advisory Task Force appointed by the Commissioner of Insurance in developing a brochure entitled *Effectively Handling Water Damage and Mold Claims: A Consumer Guide*. The publication also included suggested practices for insurers to follow when processing these claims.
- Consulting with the Texas Department of Health to develop a consumer publication entitled *Protecting Your Home from Mold*.
- Amending the prescribed residential property insurance policies to clarify coverage related to mold damage and remediation.

2003 - The 78th Legislature enacted SB 14, bringing all licensed automobile and residential property insurers under TDI rate regulation, including county mutuals for automobile and Lloyd's plans, reciprocals and interinsurance exchanges for residential property. Under SB 14, TDI was required to review all residential property insurance rates by early September 2003 and approve or modify the filed rates such that the rates were "just, reasonable, adequate, not excessive, and not unfairly discriminatory for the risks to which they applied." In August 2003, TDI announced rate actions for the top 32 insurance company groups. In September 2003, TDI announced rate actions for the remaining 29 insurance company groups. The total rate actions reduced rates up to 31 percent, saving Texas consumers more than \$511 million.

2003 - SB 14 brought the regulation of policy forms and endorsements for residential property and personal automobile insurance under Chapter 2301, Texas Insurance Code.

2003 - Activation of the Texas Fair Access to Insurance Requirements (FAIR) Plan Association, the market-of-last-resort for Texas consumers who have been denied homeowners coverage.

2003 - Creation of a special website, www.helpinsure.com, to help consumers find insurers still accepting new homeowners policyholders, along with local agents who represent those insurers.

2003 - TDI adopted the 2000 International Residential Code (IRC) and International Building Code (IBC) with Texas revisions as the new standard for certification by TDI for windstorm resistant construction. Consequently, the Commissioner of Insurance adopted rate reductions for policies written through the Texas Windstorm Insurance Association (TWIA) as a result of the adoption of the IRC and IBC.

2004 - Rules were adopted requiring companies using credit scoring in their rating practices to provide a disclosure statement to the consumer once an insurance application is received. The disclosure also

explains the consumer's right to appeal an adverse ruling that results in higher rates or other adverse actions. The company must provide a contact telephone number which the consumer can call to dispute inaccurate or prohibited information.

2004 - The Commissioner of Insurance adopted the 2003 IRC/IBC with Texas Revisions as the building standard to determine eligibility for coverage for coastal property with TWIA

2004 - The Legislature created a new workers' compensation research function at TDI by transferring the statutory research duties of the former Research and Oversight Council on Workers' Compensation (ROC) to the agency.

2005 - The Market Assistance Programs (MAP) for residential property and personal automobile were eliminated. Due to the introduction of the Fair Access to Insurance Requirements (FAIR) program and declining participation in the residential property MAP as well as low participation in the personal automobile MAP, TDI recommended elimination of the MAP function as part of the overall state budget reductions for FY 2006.

2006 - Due to the tremendous damage caused by Hurricane Rita (September 2005), staff developed several educational brochures, including *Repairs After Rita* and *Re-Roofing after the Storm*, to assist homeowners in repairing their homes to meet building code requirements. The Property & Casualty program also collected Hurricane Rita data to identify losses and potential claims paying problems, and a Temporary Qualified Inspector Rule was adopted by the Commissioner of Insurance to appoint qualified inspectors to assist the agency in certifying structures in the aftermath of a major disaster.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

P&C's customer base includes property and casualty insurance companies, advisory organizations, insurance agents, industry groups, residual market mechanisms, legislative staff, and consumers. Following is a breakdown of the persons and entities affected by the functions of this program. Data is for FY 2006 unless noted otherwise.

- Texas homeowners: 4,717,294 (U.S. Census, 2000)
- Texas renters: 2,676,060 (U.S. Census, 2000)
- Texas licensed drivers: 17.7 million (approximate, Texas Department of Public Safety)
- Texas registered vehicles: 18 million (approximate, Texas Department of Transportation)
- Commercial lines policies, excluding Worker's Compensation: 1.5 million
- Active Property and Casualty Insurers (FY 2006, 4th Quarter):

Line of Business	# Companies
Product Liability	155
General Liability	309
Commercial Fire & Allied	167
Commercial Multiple Peril	190
Private Passenger Automobile	171
Homeowners Multiple Peril	95
Workers' Compensation	223
Boiler & Machinery	90
Commercial Crime	75
Commercial Glass	8
Medical Professional Liability	40
Miscellaneous Professional Liability	62

Note: some companies are licensed in Texas and submit rate and form filings, but were not actively writing in 4th Quarter FY 2006; therefore, they are not included in the above figures.

- Authorized Managing General Agents: 151
- Title Underwriters: 21
- Licensed Title Agents: 619 - licensees are licensed in accordance with the requirements of Texas Insurance Code, Title 11.
- Escrow Officers: 6,906 - licensees are licensed in accordance with the requirements of Texas Insurance Code, Title 11.
- Direct Operations: 16 - the title insurance company is a Texas corporation or a foreign corporation holding a certificate of authority to insure titles to real property in this state and meets the requirements of Texas Insurance Code, Title 11.
- Office of Public Insurance Council (OPIC)
- Designated statistical agents, as authorized by Texas Insurance Code, Section 38.202:
 - Texas Insurance Checking Office (TICO)
 - Insurance Services Office (ISO), and
 - National Council on Compensation Insurance (NCCI).
- Statutorily created entities, as authorized by Texas Insurance Code, Chapters 2210, 2211, 2203 and 2151, respectively:
 - Texas Windstorm Insurance Association (TWIA)
 - Texas Fair Access to Insurance Requirements (FAIR) Plan Association
 - Texas Medical Liability Insurance Underwriting Association (JUA), and
 - Texas Automobile Insurance Plan Association (TAIPA).
- Advisory organizations operating pursuant to Texas Insurance Code, Chapter 1805:
 - Insurance Services Office (ISO)
 - American Association of Insurance Services (AAIS)
 - Surety and Fidelity Association of America (SFAA)
 - Insurance Council of Texas (ICT), and
 - National Crop Insurance Services (NCIS).
- Builders/Roofers - must build to the Windstorm Building Codes and participate in the inspection process for structures to qualify for TWIA coverage.
- Appointed Engineers: 643 (as of June 25, 2007) - must design, inspect and certify to the Windstorm Building Code. To qualify as an appointed engineer, applicants must be Texas licensed engineers and attest that they have education, experience or training in the design of structures in high wind areas pursuant to Title 28, Texas Administrative Code, Section 5.4604(d)(1).

- Architects and Designers - must design structures in accordance with the Windstorm Building Code to be eligible for TWIA coverage.
- Manufacturers and Suppliers - must manufacture and supply products which are compliant with the Windstorm Building Code.
- Loss Control Field Representatives (LCFR) - LCFRs are employees of insurers or fee service companies who provide loss control services to commercial policyholders and they must meet specific criteria as defined in Texas Administrative Code, Title 28 Sections 5.311, 5.1701, and 5.1731 to qualify as an LCFR.
- Amusement Ride Owners/Operators - must comply with all requirements mandated by Texas Occupations Code, Chapter 2151. In FY 2006, 1,436 amusement rides were certified.
- Amusement Ride Inspectors - must comply with all requirements mandated by Texas Occupations Code, Chapter 2151.
- Inspectors: TDI certifies and licenses inspectors for the Voluntary Inspection Program in accordance with Texas Insurance Code, Section 2003.101. Qualifications for inspectors are outlined in Texas Administrative Code, Title 28 Section 5.3800. In FY 2006, TDI licensed/certified 154 inspectors. Currently there are 430 licensed/certified inspectors.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Each P&C division leader reports directly to the Senior Associate Commissioner. Regular management staff meetings allow the Senior Associate Commissioner to provide information on activities within other agency programs and to gather information from P&C managers. These regular meetings allow managers to discuss current topics, brainstorm solutions, manage workloads, plan for pending or special projects, and discuss market conditions and regulatory needs. P&C has compiled written procedures for each division's key functions and activities, which are available for review.

P&C management encourage staff to participate in agency-sponsored education programs and also encourage the pursuit of various professional designations. P&C currently employs staff with the following designations:

- Accredited Customer Service Representative (ACSR) – 29 staff have the designation for personal and/or commercial lines of insurance, and numerous other staff are in the process of completing requirements.
- Chartered Property Casualty Underwriter (CPCU) – four staff have the designation and at least three staff are in the process of completing requirements.
- Fellow of the Casualty Actuarial Society (FCAS) – four staff have the designation.
- Associate of the Casualty Actuarial Society (ACAS) – four staff are in pursuit of the designation.
- Associate in Risk Management (ARM) – two staff have this designation.
- Certified Fraud Examiner (CFE) – one staff has this designation.
- Associate of Insurance Regulatory Compliance (AIRC) – one staff has this designation.
- Coastal Construction Inspectors/Residential Building Inspectors/Commercial Building Inspectors, certified by the International Code Council – approximately 18 staff are certified in one or more of these areas.
- Texas Licensed Professional Engineer – six staff hold this designation.

The Senior Associate Commissioner encourages division leaders to incorporate cross-training and succession planning as appropriate. Additionally, P&C uses the following leader development philosophy:

1. Identify
 - Managers identify employees who consistently perform well on tasks, routine assignments, and special projects.
 - Managers identify strengths and capabilities based on past performance.
 - Managers identify staff appropriate for cross-training and multi-disciplinary opportunities.
 - Managers identify staff exhibiting a desire to develop into a management or leader type position.
2. Delegate
 - Existing managers delegate additional authority or assign new projects to employees who consistently perform well and/or are appropriate for multi-disciplinary opportunities.
 - These employees are empowered to develop information and propose processes as necessary and appropriate for their tasks.
 - The employees review and discuss processes and outcomes with their manager and other staff, as appropriate.
3. Develop
 - As high-performing staff is identified, managers continue to delegate higher level activities and responsibilities and increase multi-disciplinary opportunities.
 - Managers continue to monitor performance of these employees, offer encouragement and advice as necessary, and act as a mentor when needed.
 - Managers apprise Senior Associate of developing employees; these are the staff that would be appropriate for future supervisory roles or as subject matter experts.

P&C's General Management Section is led by the Senior Associate Commissioner. The section consists of a team leader (program specialist), and five additional program specialists. General Management Section staff meet as needed on an informal basis, and work closely with the Senior Associate Commissioner to ensure that program needs are met and that staff is prepared to assist the program as needed.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

Funding for the Financial Responsibility Verification Program (FRVP) mandated by Texas Transportation Code, Section 601.452 is provided through TxDOT. TDI certifies invoices for payment and forwards the certified and dated original invoices to TxDOT for payment.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

No other programs provide identical or similar services as those of P&C's General Management section.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Not applicable.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The 79th Texas Legislature, Regular Session, passed SB 1670, which provides that TDI, in consultation with DPS, TxDOT, and DIR "shall establish a program for verification of whether owners of motor vehicles have established financial responsibility." As a result of SB 1670, TDI and the implementing agencies jointly entered into a contract with a vendor to develop, implement, operate and maintain Texas' Financial Responsibility Verification Program. TDI acts as the contract administrator for the project, and coordinates project development among the other three agencies and program vendor.

The Office of Public Insurance Counsel (OPIC) was created to represent the interests of insurance consumers in Texas. Once a division of TDI, OPIC became a separate agency in 1991 as a result of insurance reform legislation. OPIC acts as an advocate for insurance consumers, primarily before TDI. OPIC's statutory authority is found in the *Texas Insurance Code*, Chapter 501 and Section 38.002.

Additionally, P&C works with other local, state, and federal regulatory entities as necessary.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Two issues surround an ongoing debate on market forces versus actuarial determination: (1) achieving a balance between affordability and availability, and (2) allowing the market to self regulate.

In terms of affordability and availability, achieving a balance can be a challenge. If insurers raise rates to a level at which they are willing to provide coverage, it may be too costly for consumers to purchase insurance. Conversely, if premiums are held to a level that is affordable for consumers, insurers may

choose not to offer coverage. This situation can be seen in the homeowners insurance market along the Texas coast. Rate regulation helps ensure that filed rates are not excessive or unreasonable, with the desired result that coverage is both available and affordable for consumers.

The second issue is to what extent competition should be allowed to regulate the market place. Insurers argue that if there are numerous companies providing coverage at reasonable prices, then rate regulation is not necessary because insurers will lower the premiums they charge consumers in order to attract business. Others argue that even in a thriving marketplace, rates can still be excessive. The statutory rate standards say that “a rate may not be excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which the rate applies.” Rate regulation as it stands today applies to the company and the risks they write, as opposed to the industry, or how they compare to the industry.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Property & Casualty Program, Personal and Commercial Lines
Location/Division	William P. Hobby Building, Tower I, 4th Floor
Contact Name	David Nardecchia, Director
Actual Expenditures, FY 2006	\$1,555,219.32
Number of FTEs as of August 31, 2006	33

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of the Personal and Commercial Lines Division is to support the mission of the Property & Casualty (P&C) Program through reviewing insurance products and assisting consumers. The division consists of the Personal Lines Section and the Commercial Property/Casualty Section, and is responsible for the regulation of various lines of insurance including automobile, homeowners, commercial property, and general liability. The division performs the following major activities:

- reviews individual insurer filings of forms, endorsements, and rules for compliance with statutory and/or rule requirements and verifies that they do not contain provisions, titles, or headings which are unjust, encourage misrepresentation, are deceptive, or violate public policy;
- drafts administrative rules as necessary to implement legislation or to address statutory concerns related to property and casualty lines of insurance;
- oversees the Plan of Operation, manual rules, forms, and endorsements of the following statutorily created entities to ensure a method of providing insurance for persons unable to obtain insurance in the voluntary market:
 - Texas Windstorm Insurance Association (TWIA). Oversight of TWIA is shared with the Inspections Division.
 - Texas Fair Access to Insurance Requirements (FAIR) Plan Association
 - Texas Medical Liability Insurance Underwriting Association (JUA), and
 - Texas Automobile Insurance Plan Association (TAIPA).
- processes inquiries from agents, consumers, legislators, insurers and other regulatory entities and resolves complaints as necessary to ensure consumers and businesses are being treated fairly on insurance related matters and that insurers and agents are complying with statutes, administrative rules and policy provisions; and
- works closely with the P&C Actuarial Division to monitor the marketplace and propose changes due to changing public needs.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Personal and Commercial Lines Division continues to consistently improve its operating efficiency and effectiveness despite a decrease in the number of funded FTEs. To improve operational efficiency, the division streamlined various processes and procedures as evidenced by frequent updates to the procedures manual. In FY 2005, filing requirements were streamlined as a result of the adoption of the

Filings Made Easy (FME) rule that included provisions allowing insurers to make interline filings and dual filings. Interline filings allow a company to make one filing for multiple lines of insurance. Prior to the adoption of FME, a separate filing was necessary for each line of insurance. Dual filings allow a company to use its approved form in multi peril policies without making a separate multi peril filing, as was required prior to the adoption of FME. The division also adopted the System for Electronic Rate and Form Filing (SERFF) technology to accept and process form filings electronically for those insurers that utilize SERFF. SERFF is maintained by the National Association of Insurance Commissioners (NAIC) and was designed, in part, to improve overall efficiency of the form filing process. There are numerous checks and balances in place to help ensure that filings are reviewed in an effective manner. For example, the division developed and implemented filings review guidelines that are utilized by staff when reviewing filings.

Personal and Commercial Lines also streamlined form review processing. In FY 2006 over 95 percent of the 11,553 form reviews were completed within 90 days. This reflects a significant increase over the 71 percent of the 10,383 form filing reviews completed within 90 days in FY 2000.

Additionally, from FY 2000 to FY 2006, staff productivity improved as the number of filings increased and staffing decreased.

- Commercial Property/Casualty Section staff processed 10,834 filings in 2006 compared to 9,563 in 2000. The total number of FTEs in FY 2006 was 19, down from 29 in FY 2000.
- Personal Lines Section staff processed 719 filings in 2006 compared to 774 in 2000. The total number of FTEs in FY 2006 was 14, down from 19 in FY 2000.

Performance measure statistics related to Personal and Commercial Lines Division:

1.1.2 outcome 3 – Percent of statutory form filings completed within 90 days*					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	91.3%	87.6%	93.2%	95.0%	95.6%
Annual Target	80.0%	80.0%	91.0%	91.0%	87.0%
Percentage of Target	114.0%	110.0%	102%	104%	110.0%
Analysis/Variance Explanation	Exceeding the annual target is a result of the division's efforts to continually review its processes and procedures and make changes that result in a more streamlined approach to the review and approval of policy forms.				

*Note: Measure 1.1.2 oc 3 is shared with the Property & Casualty Actuarial Division and includes rate filings. The above data is for Personal and Commercial Lines Division form filings only.

The Personal and Commercial Lines Division also streamlined processes for complaint processing. Except for FY 2003, the Division consistently exceeded the TDI target performance measure for processing complaints within 38 days as noted in the table below.

1.2.1 efficiency 1 – Average response time (days) to complaints*					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	28	72	30	27	31
Annual Target	38	38	55	55	38
Percentage of Target	74%	189%	55%	49%	82%
Analysis/Variance Explanation	The FY 2003 target was not met due to a substantial increase in the number of complaints received in FY 2002 and FY 2003 pertaining to water-related claims, premium increases and availability of coverage.				

*Note: The above data is for Personal and Commercial Lines Division complaints only.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in P&C's General Management response to Section VII.D.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Director of Personal and Commercial Lines administers the division and reports to the Associate Commissioner for P&C, who reports to P&C's Senior Associate Commissioner. The division consists of the Personal Lines Section and the Commercial Property/Casualty Section.

The Personal Lines Section manager administers this section and reports to the Director. The Personal Lines Section has one team leader and one assistant team leader for the various lines of insurance regulated by the section. The team leader reports to the manager and is responsible for the day to day operation of the team, including monitoring workload to ensure assignments are completed in accordance with established procedures and guidelines. The assistant team leader supports the team leader with the day to day operation of the team.

The Commercial Property/Casualty Section manager administers this section and reports to the Director. The Commercial Property/Casualty Section has two team leaders responsible for the various lines of insurance regulated by the section. Both team leaders report directly to the manager and are responsible for the day to day operation of the team, including monitoring workload to ensure assignments are completed in accordance with established procedures and guidelines.

Personal and Commercial Lines supports and promotes staff professional development and cross training, which improves management of staff workloads and supports succession planning. Subject matter experts in both the Commercial Property/Casualty and Personal Lines Sections serve as mentors and assist staff with filings review, complaint processing, and responding to inquiries. Additionally, in-house training is offered to staff across both sections to review policy forms and coverages for the subject lines of insurance, filing review requirements, and information related to the agency's historical regulatory approach to the subject lines of insurance. Weekly meetings provide an additional avenue for staff and management to discuss a range of coverage issues as needed.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

Life, Health, and Licensing (LHL) Program

LHL staff perform some functions similar to the Personal and Commercial Lines Division, but for differing lines of insurance.

Consumer Protection (CP) Program

Generally, CP handles the processing of complaints from consumers, agents and other entities for the agency; however, the Personal and Commercial Lines Division handles the processing of some complaints related to property and casualty lines of insurance that require specific technical knowledge. In addition, both CP and the Personal and Commercial Lines Division respond to inquiries from consumers regarding various property and casualty lines of insurance.

Office of the Public Insurance Counsel (OPIC)

For purposes of consumer protection, OPIC has certain responsibilities including reviewing selected form filings for property and casualty insurers. OPIC also may obtain and summarize underwriting guidelines for property and casualty lines of insurance and provide a summary of those guidelines to the public via its website.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Life, Health, and Licensing Program

The Personal and Commercial Lines Division functions separately from the LHL program. Each of these divisions is charged with a different line of insurance regulation, and services do not overlap.

Consumer Protection Program

In order to avoid duplication of effort or conflict and to clearly define roles in processing complaints between CP and other programs, the agency developed a resource tool describing the types of complaints handled by each division. In addition, both CP and the Personal and Commercial Lines Division utilize the Complaint Inquiry System and communicate as necessary to avoid duplication or conflict in processing complaints related to property and casualty lines of insurance and responding to inquiries. The complaint handling resource tool is available for review.

Office of the Public Insurance Counsel

OPIC, acting as an advocate for insurance consumers, reviews and provides comments to the agency on selected form filings for property and casualty insurance, while the Personal and Commercial Lines

Division reviews form filings and makes recommendations for approval or disapproval. OPIC's involvement is limited to review and comment; TDI retains decision making authority with regard to form filings.

OPIC's website contains a summary of underwriting guidelines for homeowner and personal automobile lines of insurance, which may assist consumers shopping for these lines of coverage. In the course of monitoring the insurance marketplace, the Personal and Commercial Lines Division reviews underwriting guidelines to ensure the guidelines comply with statutory requirements.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Personal and Commercial Lines Division occasionally works with the following governmental agencies:

- Federal Emergency Management Agency (FEMA) – staff correspond with FEMA when necessary regarding Code of Federal Regulations for those applicants requesting certification from the Commissioner of Insurance that the types and amounts of insurance required to obtain FEMA assistance are not available;
- United States Department of Agriculture, Risk Management Agency (RMA) – RMA administers the federal crop insurance program and staff will serve as a resource for the RMA as necessary;
- Government Accountability Office (GAO) – staff serve as a resource for the GAO on insurance matters as necessary;
- United States Treasury Department (Treasury) – staff work with the Treasury on matters related to the federal Terrorism Risk Insurance Act;
- National Flood Insurance Program (NFIP) – staff may communicate with NFIP to gather data related to consumers affected by flood in various geographic areas around the state; and
- Various Texas state agencies as necessary to assist with insurance related issues. Some examples include the State Office of Risk Management, the Department of State Health Services, and the Governor's Division of Emergency Management.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

The regulation of property and casualty lines of insurance not only varies by state, but by line of insurance. In Texas, the Commissioner of Insurance is required to approve policy forms for personal and commercial lines of insurance before companies can use them. This type of regulation is commonly referred to as “prior approval.” However, there are some exceptions to these prior approval requirements. For example, policy forms for certain personal and commercial inland marine coverages written by certain companies are, by statute, not required to be filed and approved by the Commissioner of Insurance. Also, policy forms for use with commercial risks that are defined by statute to be a “large risk” are not required to be filed and approved prior to use. Following is a brief description of how other states regulate personal and commercial lines of insurance. This information was obtained from the Insurance Services Office (ISO is an advisory organization operating pursuant to Texas Insurance Code, Chapter 1805):

Personal Lines of Insurance

For the regulation of policy forms for personal automobile insurance, 36 states are prior approval, 10 states are file and use, 3 states are file and wait, and 1 state has standard policy forms. For the regulation of policy forms for homeowners insurance, 36 states are prior approval, 10 states are file and use, 3 states are file and wait, and 1 state does not require a filing to be made.

Commercial Lines of Insurance

More than half of the states are prior approval for the regulation of policy forms used on commercial lines of property and casualty insurance. Many of the states also have variations to the prior approval requirements for commercial lines of insurance similar to Texas. For example, most states have exceptions for policy forms that are used for large commercial risks.

Personal and Commercial Lines Division staff participated in NAIC’s Speed to Market Improvements to State Based Systems Plan (STM-IS3) and developed checklists consistent with the STM-IS3 Review Standards Checklists Subgroup.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Personal and Commercial Lines is responsible for the review of policy forms and endorsements for personal and commercial property and casualty lines of insurance. Prior approval of individual insurer filings of policy forms and endorsements is required pursuant to Texas Insurance Code, Chapter 2301. Staff review policy forms and endorsements for compliance with statutory and/or rule requirements and verify that they do not contain provisions, titles, or headings which are unjust, encourage misrepresentation, are deceptive, or violate public policy. The prior approval system for policy forms and endorsements enables TDI staff to ensure that there is no potential harm to consumers when the policy forms and endorsements are introduced in the marketplace.

During the review process, personal and commercial lines staff utilize review standards checklists to

ensure the policy forms and/or endorsements comply with the applicable statutory requirements and the requirements of Texas Administrative Code, Title 28 Section 5.9310. Staff routinely correspond with representatives from the insurance companies regarding the filing and any corrections that are necessary in order for staff to recommend approval of the policy forms and/or endorsements. Policy forms and/or endorsements that do not comply with the applicable statutory requirements or the requirements specified in Texas Administrative Code, Title 28 Section 5.9310 may be deemed incomplete and returned to the company or disapproved by the Commissioner of Insurance.

The Personal and Commercial Lines Division processes complaints from consumers and businesses regarding cancellation, non-renewal, rating and policy interpretation. CP processes the majority of automobile complaints; however, at times the Personal and Commercial Lines Division is directed to process a limited number of automobile complaints that are typically legislative in nature. The division also processes FAIR and JUA complaints. Staff review the complaint and correspond with involved parties to determine/verify the information provided in the complaint and gather any additional information that may be needed. Staff review the information to determine if there are any potential violations of the Texas Insurance Code and/or the Texas Administrative Code. Complaints that may contain possible violations of the Texas Insurance Code or Texas Administrative Code are referred to the Compliance Intake Unit of the Enforcement Program for further review. Upon referral of the complaint, staff assists the Enforcement Program as necessary including discussions regarding the appropriate sanctions for actual violations determined to have occurred. Intervention by the agency ensures that consumers are treated in accordance with policy provisions and all statutes and rules.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Property & Casualty Program Personal and Commercial Lines Division Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2005 and 2006		
	FY 2005	FY 2006
Total number of regulated entities	1,109	1,120
Total number of complaints received from the public	640	451
Total number of complaints initiated by agency (division referrals to TDI's Enforcement Program)	28	4
Number of complaints pending from prior years	0	1
Number of complaints found to be non-jurisdictional	13	1
Number of jurisdictional complaints found to be without merit (Unjustified)	358	260
Number of complaints resolved (Justified)	282	191
Average number of days for complaint resolution	45 (Commercial) 23 (Personal)	44 (Commercial) 28 (Personal)
Complaints resulting in disciplinary action:		
Administrative penalty (monetary forfeiture)	1	1
Reprimand (warning letter)	4	0
Suspension (cease and desist)	2	0
Revocation of agent's license	1	0
Other (closed no action)	9	2

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Property & Casualty Program, Inspections Division
Location/Division	William P. Hobby Building, Tower I, 3rd Floor
Contact Name	Alexis Dick, Deputy Commissioner
Actual Expenditures, FY 2006	\$2,564,030.50
Number of FTEs as of August 31, 2006	47.75

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Inspections Division's primary objective is to improve the availability and affordability of insurance by promoting loss mitigation. The Inspections Division's major activities are as follows:

- drafts and presents proposed rules affecting property and casualty insurance and the Texas Windstorm Insurance Association (TWIA) Plan of Operation (Building Code)
- represents TDI on the Building Code Advisory Committee as required by statute
- provides oversight of established commercial fire rates by outside entities
- ensures loss control compliance of insurers
- administers the amusement ride safety program
- assists the State Fire Marshal's Office (SFMO) with establishment of public protection classifications by outside entities
- conducts windstorm inspections for compliance with building codes.

The Inspections Division consists of four sections.

- Commercial Property Oversight Inspections
- Windstorm Inspections
- Engineering Services
- Loss Control.

Commercial Property Oversight Inspections

The Commercial Property Oversight Inspections Section performs the following activities:

- ensures consumers receive fair and equitable commercial property rates through random statewide spot-check inspections;
- evaluates the potential for fire losses through assessment of building codes, classification of building materials and construction techniques and commercial property rating schedules;
- provides complaint resolution as needed concerning inspections, classifications or a base fire rate assigned by a private inspection entity; and
- issues licenses to individuals conducting underwriting inspections for determining insurability of residences.

Commercial property oversight inspections are conducted under the authority of Texas Insurance Code, Chapter 2001. Commercial property oversight is needed to assure that accurate loss costs are developed and that structures are properly classified in accordance with industry-filed building rating schedules.

Commercial Property Oversight performs spot-check inspections of the Insurance Services Office (ISO) commercial property surveys. Initial oversight of the inspections performed by ISO indicated a 30 percent error rate of commercial property surveys. Through continued oversight, nationwide survey procedures developed by ISO and TDI have resulted in a 50 percent decrease in the error rate. TDI oversight of ISO surveys has resulted in fair and equitable rates for consumers and a consistent application of the schedule.

Windstorm Inspections

Through four field offices, the Windstorm Inspections Section inspects and certifies property constructed, repaired or modified in the 14 coastal counties along the Gulf of Mexico and certain specified areas in Harris County, which are designated as catastrophe areas. Windstorm inspectors ensure compliance with the building specifications and standards set forth in the TWIA Plan of Operation before coastal property is declared eligible for coverage written through TWIA. The Windstorm Inspections Section primarily serves to protect the state's assets by ensuring buildings insured through TWIA are code compliant.

TDI's certification of structures is important to ensure that construction and repairs are performed in accordance with adopted building code specifications and to reduce losses and TWIA's exposure to losses. TWIA's exposure has increased to approximately \$48 billion in liability as of April 30, 2007. TWIA losses in excess of a certain threshold will negatively impact the general revenue of the State of Texas. Without TDI's Windstorm Inspection Certificate of Compliance (Form WPI-8), TWIA will not provide wind and hail insurance coverage, which could adversely impact consumers and insureds residing on the Texas Gulf Coast as voluntary market coverage for wind and hail insurance is not available in many portions of the designated catastrophe area. Texas Insurance Code, Section 2210.251 provides an exception to the WPI-8 requirement. An applicant may obtain wind and hail coverage through TWIA without going through the inspection process if certain criteria are met. These criteria are described in Section VII.M below. Information about the Texas counties included in the designated catastrophe area is available on TDI's website at <http://www.tdi.state.tx.us/wind/index.html>.

Engineering Services

The Engineering Services Section performs the following activities:

- provides education on windstorm building codes to consumers and professionals
- oversees Texas licensed engineers appointed as qualified inspectors
- evaluates and approves designs for compliance with windstorm building codes
- evaluates building products
- evaluates and recommends applicable building code standards for TWIA building specifications
- assesses commercial and residential automatic sprinkler systems
- reviews calculation and building design plans certified by engineers
- supports the Building Code Advisory Committee
- supports SFMO in evaluating public and private fire suppression rating schedules
- supports the P&C Actuarial Division in evaluating rate filings and rate reduction proposals.

Engineering services are needed for building code development, enforcement, product evaluation, and education. The Engineering Services Section assists in the adoption of building codes to ensure that construction and repairs are made in accordance with the building codes using the latest technology to mitigate losses due to wind. The Engineering Services Section performs oversight to ensure and verify that the appointed inspectors are providing uniform and consistent inspections and properly certifying structures to the adopted building codes. Ensuring that construction and repairs are performed to the adopted building codes helps protect TWIA and Texas consumers from exposure to losses.

Loss Control

The Loss Control Section conducts inspections of insurance companies licensed in Texas and those seeking to be licensed to ensure that loss control and accident prevention services are provided for policyholders of general liability, professional liability, medical professional liability for hospitals and commercial automobile lines of insurance. The section registers loss control and field safety representatives who meet state requirements. Loss control inspections are necessary to ensure that insurance companies provide loss control and accident prevention services to aid commercial policyholders in reducing losses. In the absence of loss control audits, insurers may not provide loss control services to policyholders and policyholders would eventually pay higher rates and possibly lose coverage. Insurers are compensated through maintenance tax adjustments to provide loss control services to the policyholder.

Loss Control staff also monitor compliance with the Amusement Ride Safety Inspection and Insurance Act. In FY 2006, staff reviewed annual inspection reports and insurance policies of 1,436 amusement rides and 403 amusement ride owners/operators. Pursuant to *Texas Occupations Code*, Chapter 2151, amusement ride compliance is needed to ensure that amusement rides operating in Texas meet safety requirements established by law and provide insurance protection to the consumer. Failure to regulate amusement rides would compromise the safety of consumers.

Loss Control staff administer the Voluntary Inspection Program (VIP). Pursuant to *Texas Insurance Code*, Section 2003.101, VIP was established to aid consumers in increasing availability of residential property insurance. The purpose of this program is to provide that any person having an insurable interest in real or tangible personal property at a fixed location who desires to purchase residential property insurance may procure an independent inspection of the condition of the property by an inspector authorized to perform inspections under this program. Property meeting the conditions prescribed under this program receive a certificate of insurability. Insurance companies cannot refuse to renew or write coverage of residential property based on condition of the property if the consumer obtains this certification. Many insurers request a VIP inspection and certificate of insurability for property with previous water damage related claims. Without this program consumers would not be able to prove through an inspection that previously claimed damages have been repaired and that the property meets average or better condition, which could raise premiums and cause availability issues for the consumer. Insurers receive the benefit of knowing that the structure is insurable and previous losses have been repaired.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The performance measures for the Commercial and Property Oversight Section demonstrate effectiveness as reflected in the charts below.

3.1.1 outcome 2 – Percent of fire inspections that meet fire inspection requirements					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	85%	84%	85%	84%	89%
Annual Target	85%	85%	85%	85%	85%
Percentage of Target	100%	98.6%	100%	98.82%	104.71%
Analysis/Variance Explanation	This measure provides data regarding the accuracy of commercial property inspections conducted by the Insurance Services Office (ISO).				

3.1.1 output 3 – Number of fire safety oversight inspections completed					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	1,158	1,141	1,205	1,160	1,170
Annual Target	1,200	1,200	1,160	1,160	1,160
Percentage of Target	96.50%	95.08%	103.88%	100%	100.86%
Analysis/Variance Explanation	The purpose of this measure is to measure the number of Commercial Property Oversight Inspections completed to assure that accurate loss costs are developed and that structures are properly classified in accordance with industry filed building rating schedules.				

For fiscal years 2005 and 2006, Engineering and Windstorm Inspections Services staff provided 1,017 hours of individualized education with appointed engineers, builders, roofers and contractors. Staff also conducted 44 educational seminars/classes for builders, consumers, insurance/real estate agents, lenders, suppliers, manufacturers, engineers and city and county officials. Topics included:

- windstorm inspections process and procedures
- building code standards and enforcement
- approved building products
- design of structures in high wind areas
- mitigation of structural damage due to high-wind events.

Staff met with builders, engineers and roofing contractors, providing one on one education and training. Education provides the public with knowledge and understanding of the windstorm inspection program and building specification requirements. Continued education helps achieve better building code compliance to ensure homeowners and business owners become eligible for wind and hail insurance through TWIA and mitigate losses which protects TWIA’s exposure and the General Revenue Fund.

The main objective of the Windstorm Inspections Section is to determine compliance with the building code standard which in turn helps mitigate losses due to high wind events. As a result of the damage caused by Hurricane Rita, TDI conducted 18,923 windstorm inspections in FY 2006, a 64.5 percent increase from the target of 11,500. Of this total, 32.3 percent resulted in an approved status. This 32.3 percent fell just short of the target rate of 35 percent which can be attributed to contractors doing work after Rita who were unfamiliar with windstorm building code requirements. This percent approval demonstrates that, despite Hurricane Rita and the influx of workers unaware of the windstorm building code, TDI inspectors successfully and effectively trained contractors, and also inspected construction and determined compliance in a timely manner. The average cost to conduct the windstorm inspections for FY 2006 was \$44, which was less expensive than the target of \$50.

In FY 2006, the Loss Control Section met its performance measure target by completing 200 inspections of insurers’ loss control programs. The performance measure target for inspecting loss control programs is based on the NAIC’s database for companies licensed to write commercial insurance in the State of Texas.

Additional performance measure data for the division is presented in the charts that follow.

3.1.1 outcome 1 – Percent of insurers providing adequate loss control programs					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	90%	98%	97%	100%	99%
Annual Target	88%	88%	88%	88%	93%
Percentage of Target	102.55%	111.31%	110.18%	113.64%	106.45%
Analysis/Variance Explanation	This measure includes adequate loss control programs for commercial automobile, professional and general liability lines.				

The Voluntary Inspection Program (VIP) currently has 430 licensed/certified inspectors. In FY 2006 the section issued 74 new licenses/certificates and processed 81 renewals of licenses/certificates.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in P&C's General Management response to Section VII.D.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Inspections Division is led by a Deputy Commissioner who oversees the Commercial Property Oversight, Loss Control, Windstorm Inspections and Engineering Services sections. The Deputy Commissioner reports directly to P&C's Senior Associate Commissioner. A manager oversees the Commercial Property Oversight and Loss Control Sections, which also include the Amusement Ride Regulation and Voluntary Inspections Program functions. The Windstorm Inspections Section is led by a manager who oversees field offices in Beaumont, La Marque, Angleton and Corpus Christi. In addition, a supervisor oversees the Windstorm Intake Unit in Austin. Engineering Services is headed by the Chief Engineer.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

<p>H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.</p>

TWIA and TDI's Windstorm Inspections Section both use inspectors. However, the services are not identical or overlapping, as TDI windstorm inspectors and appointed engineers inspect a structure to determine compliance with windstorm building codes, while TWIA employs contract inspectors to determine if a structure meets TWIA underwriting guidelines.

External entities, including other state insurance departments, perform functions similar to the Inspections Division:

Commercial Property Oversight Inspections Section

Texas privatized its commercial property inspection and rating function in 1994 and adopted the Insurance Services Office's (ISO) Specific Commercial Property Evaluation Schedule (SCOPES), but retained the provision for TDI oversight to ensure fair and equitable commercial inspections statewide. Approximately 17 percent of state insurance departments continue to conduct and oversee commercial property inspections, using state inspectors to develop commercial property loss costs. The ISO conducts commercial property inspections in all other states.

Windstorm Inspections and Engineering Services Sections

While most hurricane-prone states have agencies involved in the adoption and inspection of statewide building codes, Texas does not license contractors, nor does it have an agency responsible for enforcing a mandatory statewide building code for windstorm resistance. TDI currently has a voluntary inspection and certification program, which addresses construction in the designated catastrophe area for persons wishing to obtain wind and hail coverage through TWIA. Inspections can only be made by TDI employees or Texas licensed professional engineers who have been appointed by the commissioner of insurance. The current building code standard which has been adopted by TDI is the International Building Code/International Residential Code (IBC/IRC) along with the Texas revisions. North Carolina, South Carolina and Florida specifically require plan review of structures and certification of inspectors, and are involved in various activities to mitigate damages as a result of high wind events. Florida also requires licensing of builders and roofers, which Texas does not.

Loss Control Section

Texas has statutorily required loss control requirements for insurers of commercial automobile, professional liability for hospitals, professional liability for insureds other than hospitals, general liability and medical professional liability insurance. Most other states only have a specific review of loss control services for workers' compensation insurance. Most large insurers, as a result of Texas' loss control requirements, extend these services to all of their policyholders in other states.

Amusement Ride Compliance

In Texas, TDI is responsible for the Amusement Ride Safety Inspection and Insurance Act, as a function of insurance regulation. Most other states have regulatory requirements for amusement rides; however, there is no consistent nationwide approach to amusement ride regulation. Examples of other states' agencies which regulate amusement rides are: Department of Agriculture, Department of Public Safety, State Fire Marshal's Office, State Treasury Department, State Department of Labor, and State Department of Commerce. Texas' amusement ride regulations can be categorized as mainstream, with some states applying more stringent regulation and some states with less regulation.

Voluntary Inspection Program

Texas is the only state known to TDI to have an insurance program that certifies or provides a license to an individual to inspect the condition of a structure for residential property insurance and issue a certificate of insurability.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TDI windstorm inspectors and appointed engineers inspect a structure to determine compliance with the windstorm building codes, while TWIA employs contract inspectors to determine if a structure meets the TWIA underwriting guidelines.

An inspection to determine if a structure or building meets the windstorm building code criteria requires windstorm plans, specifications, calculations, inspection reports, test reports, model code evaluation reports, TDI product evaluation reports and manufacturer's high wind installation instructions for the building products used in the construction of the building or structure. An inspection to determine if the structure meets the TWIA underwriting guidelines does not require this type of technical detailed information. Activities of the Windstorm Inspections Section and TWIA do not conflict and are not duplicated.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The agency actively promotes the use of the windstorm building code and works with local building officials to educate builders, homeowners, engineers, suppliers, etc. about the building code and obtaining wind and hail insurance coverage through TWIA.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Restore ability of TDI to fine an appointed inspector.

Senate Bill 14, 78th Legislature, Regular Session removed TDI's statutory authority to levy administrative penalties against Texas licensed engineers who violate the rules and regulations of the agency. At this time, TDI can warn, probate or pursue removal from appointment. Reinstating TDI's statutory authority to levy administrative penalties against engineers appointed as qualified windstorm inspectors would benefit TDI's enforcement process. A policy issue discussed in Section IX of TDI's Self-Evaluation

Report proposes additional responsibilities for TWIA, which impact implementation of this recommendation if adopted.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

At its inception, TWIA insured a structure if the homeowner could show an existing residential property insurance policy, or if the structure resided in a municipality that had a building code. However, following the devastation wrought in Galveston by Hurricane Alicia in 1983, the Legislature determined that building codes were not being enforced along the Texas Gulf Coast. Consequently, TDI's windstorm inspection program began in 1988.

In 1997, the Commissioner of Insurance adopted a windstorm building code based on Engineer Design Standards (ASCE-7) which required the use of engineering plans and calculations. The adoption of the more stringent engineering-based windstorm building code resulted in an increase in the number of inspections and certifications performed by Texas licensed professional engineers. Consequently, beginning February 1, 1999, TDI began the formal process of appointing Texas licensed professional engineers as qualified inspectors to perform windstorm inspections. TDI adopted the appointment process to provide specific procedures that must be followed for the inspection and notification of compliance of a structure by a Texas licensed professional engineer. This process is designed to ensure that Texas licensed professional engineers appointed as qualified inspectors have the experience, education and skills necessary to design, inspect and certify structures for wind resistance in high wind areas. The appointment process is also designed to ensure that Texas consumers are adequately and fairly served by the engineers appointed as qualified inspectors.

At the time TDI began the windstorm inspection and certification process in 1988, TDI windstorm inspectors certified 92 percent of the structures applying for certifications of compliance with the windstorm building code, while Texas licensed professional engineers inspected 8 percent of the structures. During the past eight years, this trend shifted and dramatically changed the services TDI provides. In FY 2006, TDI windstorm inspectors certified 18 percent of the structures applying for certifications of compliance with the windstorm building code, while TDI-appointed licensed professional engineers inspected 82 percent of the structures. This shift can be attributed to the adoption of stricter building codes based on an engineer design standard requiring the use of engineering plans and calculations. While TDI windstorm inspectors remain qualified to conduct inspections that do not require submittal of engineering analysis, the demand for this service has declined. With this change, TDI's focus moved from inspection and certification of structures to oversight of the appointed engineers. Consequently, TDI reduced the number of field offices from seven to four and reduced the number of windstorm inspectors on staff from approximately 50 to 19, while continuing to serve the 14 coastal counties along the Gulf of Mexico and certain specified areas in Harris County.

Increased inspections and certifications by appointed engineers have resulted in difficulty meeting established performance measure targets for Measure 3.1.1 op 1, Number of Windstorm Inspections Completed, Measure 3.1.1 oc 3, Percent of Windstorm Inspections resulting in an "Approved" Status Code and Measure 3.1.1 ef 1, Average Cost per Windstorm Inspection.

A goal of the Windstorm Inspection Program is to encourage coastal counties with a significant hurricane exposure to adopt and enforce the windstorm building code standards and to develop windstorm inspection and certification programs to ensure compliance with wind resistant provisions of the windstorm building code. As coastal counties adopt and enforce the windstorm building code, insurers

may be encouraged to write more wind and hail coverage in the coastal properties, thus lessening the exposure for TWIA.

An exception to obtaining Form WPI-8 from TDI is found in statute. The Texas Insurance Code, Section 2210.251 provides that wind and hail coverage may be obtained through TWIA without going through the inspection process if:

- the structure has been previously insured for wind by a company within the past 12 months
- the insurer either discontinued coverage for that structure or for the area in which it is located
- all other TWIA underwriting standards are met.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Commercial Property Oversight

Commercial Property Oversight regulation is needed to assure that accurate loss costs are developed and that structures are properly classified in accordance with industry filed building rating schedules. On a monthly basis, the ISO provides a list to TDI of all specific commercial property surveys it has completed. TDI oversight selects a random sample of approximately 100 surveys from the ISO monthly report. TDI oversight inspectors make a physical inspection of the selected commercial properties for compliance with the ISO's filed SCOPES. TDI reports its findings, including errors, to ISO on the last working day of the month of inspection. ISO reports to TDI any contested error determinations. TDI reviews the challenged inspections and makes final determination that the error was validly assessed. ISO is required to furnish a corrected survey to the requesting insurer. If ISO's error rate is greater than 15 percent, ISO is referred to TDI's Enforcement Program for appropriate action such as an assurance of voluntary compliance. Commercial Property Oversight received no complaints in FY 2005 and FY 2006.

Additionally, TDI commercial property inspectors receive requests for determination of superior fire resistive/wind resistive construction for residential property from insurers, agents, TWIA and the Texas Fair Access to Insurance Requirements Plan Association. TDI physically inspects these properties for fire resistive/wind resistive construction as defined in the *Texas Commercial Property Rating Manual*. TDI advises the requestor of the proper rating classification of the inspected property.

Windstorm Inspections Section

The Windstorm Inspections Section is needed to ensure that structures are eligible for wind and hail coverage through TWIA. This process is done through inspection and issuance of a certificate of compliance, which indicates that a structure meets the applicable windstorm building code standards. The inspection is performed by a TDI windstorm inspector or a Texas licensed professional engineer appointed by TDI. The Texas licensed professional engineer is under the regulatory authority of the Texas Board of Professional Engineers.

In accordance with Texas Insurance Code, Section 2210.251, a notice for a windstorm inspection (Form WPI-1) must be submitted to the Windstorm Inspections Section prior to commencement of any construction. The WPI-1, which can be completed by any party (owner or another person acting on

behalf of the owner, contractor, insurance/real estate agent, engineer) is then submitted to the Windstorm Intake Office in Austin or to one of the four field offices located along the coast. Each of these offices can then enter the necessary information into the TDI system. A TDI windstorm inspector or a Texas licensed professional engineer appointed as a windstorm inspector will conduct the inspections during each major phase of construction to determine compliance with building code standards. A TDI windstorm inspector will provide documentation indicating status of inspections and if any deficiencies are present.

If the structure is compliant, Form IL-1 (used by TDI windstorm inspectors) or Form WPI-2-BC (used by appointed licensed professional engineers) is sent to TDI Windstorm Intake staff in Austin, notifying TDI that the inspection process is complete and meets the applicable building standards for the area in which it is located. Intake staff verifies the submitted paperwork (checking for accuracy of location, building code and type of construction), and issues a certificate of compliance, Form WPI-8. The WPI-8 is proof of eligibility for wind and hail coverage through TWIA and a copy of this form is submitted to TWIA.

If the structure is non-compliant, a TDI windstorm inspector and/or appointed licensed professional engineer discuss deficiencies and possible corrective measures. Once deficiencies have been corrected, the builder/roofer requests a re-inspection to certify the structure.

In instances where there has been a violation of TDI's inspection process rules by an appointed licensed professional engineer, a referral for disciplinary action is made to TDI's Enforcement Program. Sanctions may range from probation to revocation of the appointment as a qualified inspector.

Engineering Services Section

The Engineering Services Section is needed to evaluate and recommend applicable building code standards for TWIA building specifications; evaluate building products; oversee Texas licensed professional engineers appointed as qualified inspectors; and provide education on the windstorm building codes to consumers and professionals. The Engineering Services Section works with the Building Code Advisory Committee to evaluate and recommend proposed changes to the applicable building code standards for construction and repairs of structures located in the designated catastrophe area along the Texas coast. The commissioner may consider adoption of any proposed recommendations through the rule making process.

In conjunction with the adoption of applicable building codes, the Engineering Services Section evaluates building products for application in the windstorm inspection program and publishes evaluation reports for posting on the Windstorm Inspections section of the agency website.

The Commissioner of Insurance also has the authority to approve and appoint qualified inspectors to perform windstorm inspections and certifications. Oversight includes audits of structures to ensure that consistent and uniform windstorm inspections are being provided to the public by the appointed inspectors and to ensure that structures are being constructed to the applicable windstorm building code standards. The oversight inspection may be conducted in one of the following manners: the Engineering Services staff may conduct an audit of the appointed engineer's records at TDI; the Engineering Services staff may conduct an on-site inspection at the appointed engineer's place of employment or at the building or structure for which TDI has received an application for certificate of compliance or an inspection verification form; or the engineer appointed as a qualified inspector may be requested to attend an audit conducted at TDI. In the event qualified inspectors are not complying with the law, the commissioner has the authority to take enforcement action.

Loss Control Section

Loss control inspection regulation is needed to ensure that insurance companies provide required loss control and accident prevention services to aid commercial policyholders in reducing losses. TDI loss control inspectors conduct an evaluation of insurers writing commercial automobile liability insurance, professional liability insurance for hospitals, general liability insurance, professional liability for insureds other than hospitals, and medical professional liability insurance for insureds other than hospitals at least every two years. Audits are conducted through field audits by TDI loss control inspectors based on the procedures outlined in Texas Administrative Code, Title 28, Chapter 5. Audits may be performed at the company location, company representatives may come into TDI's Austin office, or audits may be conducted through correspondence. Companies are requested to provide TDI with a list of policyholder accounts by premium grouping, location, and loss ratio. The list of policyholder accounts must be submitted at least 45 days prior to the date set for the evaluation. TDI selects policyholder accounts to be audited. Worksheet forms are provided to the company to be completed on each account selected prior to the audit. TDI audits the loss control file for each selected policyholder account for determination of loss control requirements pursuant to Texas Insurance Code, Chapters 1903 and 1952. TDI issues a final report to the company, including recommendations and determination of adequacy. Companies receiving an adequate rating receive a certificate of compliance from TDI. Companies receiving an inadequate rating are referred to TDI's Enforcement Program for determination of compliance and appropriate action, such as levying a fine or sending warning letters. Loss Control Inspections received no complaints regarding loss control services in FY 2005 and FY 2006.

Amusement ride compliance regulation is needed to ensure that amusement rides operating in Texas meet safety requirements established by law and provide insurance protection to the consumer. Amusement ride owners/operators and their insurers file with TDI required annual inspections of amusement rides and general liability policies, along with a filing fee. TDI reviews these documents for statutory compliance and issues a certificate and a compliance sticker for each amusement ride or device. TDI also receives routing schedules for mobile ride operations, quarterly injury reports, and quarterly governmental action reports. If TDI is aware of any non-compliant amusement ride operations, these operations are referred to TDI's Enforcement Program and the appropriate law enforcement agency is notified for closure and possible fines. Loss Control did not receive any complaints about amusement ride compliance in fiscal years 2005 and 2006.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Complaint information is not tracked for engineers or builders. However, a complaint may be submitted to either the Windstorm Inspections Section, including a windstorm field office, or the Engineering Services Section. Upon receipt of the complaint, staff reviews the information to determine TDI's level of involvement in resolving the complaint. If an oversight inspection is deemed justified based on the information provided, an engineer oversight file is established in the Engineering Section. The Windstorm Inspections Section manager, in conjunction with the Chief Engineer, will assign a TDI engineer or field inspector to perform an oversight inspection. The inspector will contact the appointed engineer, builder and homeowner (if applicable, the house may not be occupied), giving them notice that an oversight inspection will be conducted. A TDI engineer or field inspector will conduct the oversight inspection to determine windstorm building code compliance for insurance purposes. All involved parties are notified of the oversight inspection, dates of inspection and results of inspection. TDI works with engineers and builders to resolve non-compliance structural issues in an effort to make the structure eligible for wind and hail insurance coverage.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Property & Casualty Program, Title Division
Location/Division	William P. Hobby Building, Tower I, 6th Floor
Contact Name	Robert Carter, Deputy Commissioner
Actual Expenditures, FY 2006	\$245,109.71 expended from TDI budget, plus title examinations expenses billed to the guaranty association
Number of FTEs as of August 31, 2006	20 appropriated FTEs, plus 16 allocated FTEs fully supported by the guaranty association

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Title Division regulates policy forms and rates for title insurance and oversees licensing and financial examination of title agents. The Title Division consists of two sections.

- **Title Insurance Section**
Oversees licensing of title agents, direct operations, and escrow officers, responds to consumer complaints and inquiries, and assists with rule and rate hearings.
- **Title Examinations Section**
Conducts comprehensive, limited scope, and restricted compliance audits of title agents licensed in Texas. Title Examinations is an allocated area – all of the expenses are reimbursed by the Guaranty Association (GA). Thus, there is no impact on the TDI Budget from this area and it is frequently omitted from TDI's budget process and FTE count. The GA's Board of Directors approves the section's staffing level and annual budgets. (FY 2006 Budgeted FTEs: 16.0; 2/1/2007 FTEs: 16.0)

The Commissioner of Insurance sets and promulgates title companies' premium rates and forms. Industry-wide rates and forms are considered at biennial public hearings and at other times as the need arises. The biennial hearing consists of two phases: a hearing on proposed rules and forms and a contested hearing on rates. The rule and form hearing determines what forms the Commissioner of Insurance may adopt, and the rate hearing determines what rates will apply to the new and existing forms.

In the rule and form phase, interested parties, including industry, consumer groups, and Title Division staff submit proposals. These proposals become agenda items in the rule and form phase of the biennial hearing. Title's Deputy Commissioner presents staff's proposals at the hearing to the Commissioner of Insurance. The commissioner considers the proposals and then determines whether to adopt or reject the forms and rules for industry-wide use.

The rate phase of the biennial hearing is a contested case. The parties present their proposals and supporting evidence, and can cross examine witnesses of the other parties. During the rate hearing, the Commissioner of Insurance evaluates whether to raise or lower existing rates and determines what rates should apply to new or amended forms. Title's Deputy Commissioner is an advisor to the commissioner in this process. The Commissioner of Insurance considers the testimony and then determines whether to adopt or reject rates for industry-wide use.

Title insurance insures against past defects in title to real property, as opposed to insuring against future

events. As a consequence, much of the underwriting function consists of title searches performed by agents using abstract plants maintained by agents to detect or potentially resolve existing title problems. An abstract plant is a geographically indexed copy of all documents (deeds, liens, etc.) relating to real property ownership in a particular county. Title insurance is not a casualty product. By its nature, title insurance arises out of real estate transactions, which are closed by escrow officers. Billions of dollars pass through title agent escrow accounts every year. Due to the complexity of real estate transactions and title insurance, many functions such as consumer complaint processing, license processing, and field examinations are handled by the Title Division.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

While the Title Division has not solicited feedback through formal surveys, informal industry feedback indicates satisfaction with regulatory effectiveness and efficiency. Federal authorities with the Government Accountability Office (GAO) solicited participation from Texas in its recent study of title insurance regulation; Texas was one of only six state participants.

For FY 2006 the Title Division processed just over 10,000 filings encompassing title agent and escrow officer license applications, renewal applications, cancellations, address changes, certifications, and continuing education filings. For FY 2006, 84 percent of Title filings were processed within the 15 day time frame. The target performance measure for processing complaints is 38 days. For FY 2006 the Title Division processed a total of 368 complaints with an average processing time of 30 days.

1.2.1 efficiency 1 – Average response time (days) to complaints*					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	27	26	27	32	30
Annual Target	38	38	55	55	38
Percentage of Target	71%	68%	49%	58%	79%
Analysis/Variance Explanation	Less than target is desirable for this measure.				

*Note: The above data is for the Title Division only.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in P&C's General Management response to Section VII.D.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Title Division consists of the Title Insurance Section and the Title Examinations Section, both overseen by a Deputy Commissioner. The Deputy Commissioner reports directly to P&C's Senior Associate Commissioner.

The Title Insurance Section has four staff. The goal is to process completed license applications within 15 days of receipt, and to resolve complaints within 38 days of receipt. The Deputy Commissioner and a senior technical advisor assist in triaging emergency matters as necessary.

The Title Examinations Section is headed by a director. Additional staff include an assistant director, audit coordinator and an administrative assistant in Austin, two auditors assigned to Central Texas, four auditors in North Texas, two auditors in West Texas, three auditors in Houston and one auditor in South Texas. The goal is to audit every title agent at least once every three years.

The Deputy Commissioner meets weekly with the managers of the Title Insurance Section and the Title Examinations Section to coordinate regulatory responses. For example, the Title Examinations Section may be in the process of citing a title agency for multiple violations at the same time that agency is seeking a license renewal from the Title Insurance Section. As another example, the Title Insurance Section may be processing multiple consumer complaints involving a title agency which has already been referred to the Enforcement Program for violations by the Title Examinations Section. These situations benefit from communication and a coordinated response within the Title Division.

Written processes for Title Division functions, where applicable, can be found in P&C's Appendix 3.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

The Title Examinations Section is an "allocated" area. The GA collects policy guaranty fees, which are charged on all title insurance policies issued in the state. The GA's mission is to avoid receiverships, so a portion of the guaranty fees is used to fund the Title Examinations Section. All expenses, including the salaries of all staff members and travel expenses, are billed to the GA on a quarterly basis (so that the state is reimbursed). There is no impact on the TDI budget from the Title Examinations Section, and thus it is generally omitted from the budget process and FTE count.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

Consumer Protection (CP) Program

Traditionally, CP handles the processing of all complaints for the agency. However, most complaints related to property and casualty lines of insurance require specific technical knowledge and cannot be handled by the complaints processing staff available in CP. Title insurance complaints require specific knowledge of the title process. For this reason, the Title Division processes all title related complaints. The basic process used by the Title Division is similar to that used by CP, using the same internal database, general processing guidelines and timeframes.

Life, Health, and Licensing (LHL) Program

The Licensing Division of the LHL Program licenses the majority of insurance agent license types, excluding title agents and escrow officers which are processed in the Title Division. Title agent/escrow officer licensing is governed, for the most part, by different statutes of the *Texas Insurance Code*. Title agents are licensed by county, which differs from other line of insurance and therefore, title agent information is maintained in a separate database.

Financial Program

The Financial Program routinely conducts financial examinations of insurance companies to check their financial condition and code compliance. With regard to title insurance, the Financial Program has the authority to conduct Market Conduct Reviews of the title companies (underwriters). On occasion, title agents with solvency issues are referred to the Financial Program for rehabilitation. The agents may be placed in confidential supervision or administrative oversight. The Financial Program has special expertise, staffing and other resources for this function. The Title Examinations Section is focused on title agents and their compliance with TDI rules and regulations. The Title Examinations Section can detect solvency problems with agents and then report those solvency problems to the Financial Program for possible rehabilitation or other action. The Title Division coordinates with the Financial Program in referrals as well as in determining possible corrective actions.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Consumer Protection Program

Title Division staff coordinates with CP to process complaints. Title insurance complaint activities rarely duplicate or conflict with other program areas. If Title Division staff receive a complaint or license application that should be processed by another program it is promptly forwarded to the appropriate area.

Life, Health, Licensing Program

Title's licensing activities rarely duplicate or conflict with other program areas.

Financial Division

In the event the Title Division finds cause to refer a company to the Financial Program for financial concerns, Title Division staff coordinate efforts with the Financial Program. Staff in both programs communicate regularly to remain updated on any issues regarding statutory non-compliance and agency efforts to resolve the insolvency issues.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Title Division provides support to various agencies, including the FBI, local prosecutors, the Texas Real Estate Commission, and the Texas Department of Savings & Mortgage Lending in cases involving mortgage fraud. The state agencies regulate real estate agents and lenders, respectively. Title Division staff can advise them of common patterns and/or parties seen in questionable deals. Staff can also provide technical assistance to the FBI and local prosecutors in mortgage fraud prosecutions, either as background (explaining the various closing documents) or as witnesses.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Title insurance is not a traditional casualty product. A one time premium is paid to acquire protection against past title problems, not future occurrences, and for as long as the insured owns the property. Title insurance has a much lower ratio of claims paid to premiums collected than other lines of insurance. Most of the cost of title insurance is for maintenance of an abstract plant and trained personnel. The emphasis is on title research to uncover and deal with title problems already in existence at the date of the policy. Consumers are especially vulnerable to any unregulated closing costs, as a person only purchases a home a few times in a lifetime and the title insurance premium and other closing costs are small in comparison to the price of the house. Claims problems are complicated and fact specific, often involving complex real estate transactions. For these reasons, Title Division personnel should be highly trained and knowledgeable in title insurance and real estate transactions.

In some states, title insurance is unregulated. In other states, rates are subject to free market competition and a file and use system is used. In Iowa, title insurance is issued by the state. It is difficult to make meaningful comparisons to other states for several reasons: 1) in some states, the rate is all-inclusive while in other states unregulated additional charges are allowed, and 2) title insurance is driven by the laws of real estate conveyance and real estate titles, which also vary from state to state.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- **why the regulation is needed;**
 - **the scope of, and procedures for, inspections or audits of regulated entities;**
 - **follow-up activities conducted when non-compliance is identified;**
 - **sanctions available to the agency to ensure compliance; and**
 - **procedures for handling consumer/public complaints against regulated entities.**

In general, the functions of the Title Division are necessary due to the large amount of money flowing through escrow accounts (approximately \$528 billion in 2006), the potential for mortgage fraud and identity theft, the complexity of the coverage, and the limited knowledge of consumers who purchase title insurance on an occasional basis in a rushed atmosphere. The title industry is directly impacted by the fluctuating real estate market and interest rates. When the lending and real estate markets are active, claim payments are usually low; however, during real estate market dips, the market must be regulated to minimize the number of title agents and insurers who go out of business as claims increase and loans are in default. Rural markets are at special risk. If independent, rural agents go out of business, an entire county may be without a local title agent, with its attendant knowledge of local property records and transfers.

The Title Examinations Section conducts comprehensive compliance audits that include testing the agents' abstract plants, auditing the escrow accounting records and guaranty files, and reviewing the agents' financial statements. The auditors follow a written audit program that outlines the areas to be audited and complete worksheets that consist of checklists showing the items to review in each audited area. Staff audit the internal controls of the title agents. This encompasses government accounting standards issued by the GAO. If the audit reveals significant non-compliance, a follow-up audit is scheduled. The follow-up is usually done a few months later and the scope is limited to testing areas that were not previously in compliance. If compliance has not been achieved, a referral for disciplinary action is made to TDI's Enforcement Program. The Enforcement Program may take action ranging from small fines to license revocation.

Most consumer complaints are handled through correspondence by the Title Insurance Section. When a complaint is received staff enters it in the Complaint Inquiry System which assigns a specific complaint number. Title Division staff sends a copy of the complaint to the title company requesting a detailed response regarding each of the complainant's issues. The title company has two weeks to respond. Staff will then correspond with the complainant providing a copy of the title company's response. If a violation of rules and or regulations is found, the file may be referred to the Enforcement Program. When a field audit is needed, staff investigate.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Property & Casualty Program Title Division Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2005 and 2006		
	FY 2005	FY 2006
Total number of regulated persons	6,704	6,906
Total number of regulated entities	619	635
Total number of entities inspected	257	263
Total number of complaints received from the public	376	365
Number of complaints pending from prior years	33	24
Number of complaints resolved	393	368
Average number of days for complaint resolution	32	30
Complaints resulting in disciplinary action:	1	10

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Property & Casualty Program, Workers' Compensation Classification and Premium Calculation Division
Location/Division	William P. Hobby Building, Tower I, 5th Floor
Contact Name	Nancy Moore, Deputy Commissioner
Actual Expenditures, FY 2006	\$546,208.11
Number of FTEs as of August 31, 2006	9

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Workers' Compensation (WC) Classification and Premium Calculation Division regulates the insurance companies licensed to write workers' compensation insurance in Texas. The functions of this division are an integral part of the overall regulatory responsibility of TDI. Workers' compensation insurance has the potential to impact every employer in Texas. Therefore, it is imperative to ensure that insurers writing workers' compensation insurance follow the statutes and rules governing this line of insurance. This division is composed of the Classification Section, the WC Oversight Section and General Management. A brief description of each section's responsibility and corresponding statutory reference is shown below.

Classification Section

The Classification Section assists employers, agents and insurance companies in determining the proper workers' compensation classification for policyholders. The object of the classification system is to group employers into classifications so that each classification reflects the exposure common to those employers. Staff determine the proper classification for policyholders through either telephone inquiries or written correspondence, which is maintained as reference material for future classification reviews. Based on the description of the employer's operations, a classification is assigned. The classification is the basis of the calculation of workers' compensation premium. Texas Insurance Code, Section 2053.051 requires that the classification system be revised at least once every five years. The staff make recommendations to the Commissioner of Insurance of changes to be made to the classification system.

WC Oversight Section

The WC Oversight Section responds to many verbal and written inquiries and complaints pertaining to workers' compensation insurance. Inquiries and complaints are about a variety of topics, such as the cancellation of a workers' compensation policy, charges made on the final payroll audit, changes in ownership for an insured, the calculation of experience modifiers and whether workers' compensation coverage is mandatory in Texas.

This section also oversees the calculation of experience modifiers to ensure that the experience modifiers are calculated in accordance with the uniform experience rating plan. Texas Insurance Code, Section 2053.052 requires that the Commissioner of Insurance adopt a uniform experience rating plan. By rule insurers are required to calculate experience modifiers; however, most insurers contract with the National Council on Compensation Insurance (NCCI) to calculate experience modifiers. An experience modifier compares the actual experience of that insured with the experience expected for that size and type of insured. If the insured's experience is better than expected, the experience modifier results in a reduction

in premium. If the insured's experience is worse than expected, the experience modifier results in an increase in premium.

In addition, the WC Oversight Section also reviews workers' compensation policies to ensure that insurers have issued the policies and calculated the premium in accordance with the laws governing Texas workers' compensation. This includes:

- reviewing policies for small employers to be certain that those employers receive the premium incentive required under Texas Insurance Code, Sections 2053.251-2053.256;
- being certain that policyholders fully disclose to their insurers policyholders' ownership, changes of ownership, operations or payroll and policyholders' records relating to workers' compensation insurance pursuant to Texas Insurance Code, Section 2051.101; and
- determining whether an experience modifier should be amended based on proof that a change in a policyholder's management or operations is clearly designed to result in a probable reduction of the insured's loss experience pursuant to Texas Insurance Code, Section 2053.054.

The WC Oversight Section also handles the majority of the requests subject to the Public Information Act for this division. These requests are handled in accordance with TDI procedures established by Agency Counsel.

General Management

General Management staff handle administrative and management responsibilities for the division as well as other functions. Pursuant to Texas Insurance Code, Section 2052.002, staff review endorsement and form filings that require prior approval from the Commissioner of Insurance. The review and recommended approval of these various endorsements and forms make available to Texas policyholders workers' compensation insurance products that are reasonably priced and meet the insurance needs of the buying public. Staff also review the plan of operations and issue a certification for groups formed pursuant to Texas Insurance Code, Chapter 2055, which allows the group purchase of workers' compensation. In addition, staff administer loss incentive programs, such as retrospective rating plans, pursuant to adoption under Texas Insurance Code, Article 5.77.

All three sections of this division participate in reviewing rules, classifications, endorsements and forms contained in the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance*. Staff make recommendations for changes in the manual in the form of a petition to TDI's Chief Clerk's Office. Changes are adopted by the Commissioner of Insurance pursuant to the process outlined in Texas Insurance Code, Article 5.96. Staff are also responsible for updating the manual with the adopted changes. The manual is available for purchase from TDI and is available as a downloadable file from the TDI website.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The WC Classification and Premium Calculation Division contributes to the agency performance measure for processing complaints. This division does not handle the volume of complaints that is handled by the Consumer Protection (CP) Program. However, the complaints handled by this division are very technical in nature and require the specific knowledge base of WC Classification and Premium Calculation Division staff. For FY 2006, staff resolved 85 complaints with an average response time of 32 days.

1.2.1 efficiency 1 - Average response time (days) to resolve complaints *					
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006
Actual Performance	29	24	33	36	32
Annual Target	38	38	38	38	38
Percentage of Target	76%	63%	87%	95%	84%
Analysis/Variance Explanation	Performance has exceeded the target in spite of a 26 percent reduction in staff. Less than the target is desirable for this measure.				

*Note: The above data is for the WC Classification and Premium Calculation Division only.

For quality control purposes, the division has established a review protocol for handling complaints. Upon receipt of a complaint, the team leader for the WC Oversight Group assigns the complaint to one of the insurance specialists to process. The complaints are distributed on a rotation basis which allows complaints to be divided more evenly among the specialists and handled in the most efficient manner possible. Each closed complaint is independently reviewed by one of the specialists and the team leader to be certain that the complaint was resolved in the proper manner. This review also includes being certain that the Complaint Inquiry System (CIS) contains the correct information. All but two of the complaints processed by this division since FY 2002 have been resolved without making a referral to the Enforcement Program. This division continues to work with the Enforcement Program in regard to resolving these complaints and possibly taking disciplinary action against the insurance company for its actions. This shows that the process for resolving complaints used by this division is working and is effective.

Additionally, several of the employees in this division have received letters from complainants thanking the employees for the manner in which their complaint was handled, commenting on the timeliness of getting the complaint resolved and expressing their appreciation for the good outcome.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in P&C's General Management response to Section VII.D.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The WC Classification and Premium Calculation Division is administered by the Deputy Commissioner, who reports directly to P&C's Senior Associate Commissioner. The division has two team leaders, one for the Classification Section and one for the WC Oversight Section. Both team leaders report directly to the Deputy Commissioner and are responsible for the day to day operations of each section. This includes monitoring the work performed to ensure the work is completed according to the established procedures and guidelines. The division cross trains all employees on its functions. Information is shared between the sections to promote consistent and accurate responses by all employees of the division.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

Traditionally, CP handles the processing of all complaints for the agency. However, some complaints related to property and casualty lines of insurance require specific technical knowledge and are more appropriately handled by P&C technical staff.

The WC Classification and Premium Calculation Division handles the workers' compensation complaints that do not involve job-related injuries. Complaints handled by this division are usually technical in nature and pertain to specific rules contained in the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance*. For example, a complaint handled by this division may involve the cancellation of a workers' compensation policy, the premium calculation made on the final payroll audit, the inclusion of certain payroll in calculating premium, exclusion of coverage for sole proprietors, partners or executive officers of a corporation, a policyholder not receiving the premium incentive for small employers, a change in the amount of schedule rating debit/credit charged on the policy or audit or a problem with a policy written on a deductible basis. The expertise of the staff of the WC Classification and Premium Calculation Division allows these technical complaints to be handled in an efficient manner.

Workers' compensation complaints received by TDI that relate to a claim of an injured worker are handled by the Complaint Resolution/Customer Service Group (CRCS Group) of the Division of Workers' Compensation (DWC).

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

CP, CRCS, and the WC Classification and Premium Calculation Division have an agreement regarding the processing of workers' compensation related complaints. Regardless of the division the complaint originates in, the complaint is entered into CIS by the originating staff member. The complaint is then routed to the appropriate division for processing. CP provides the Deputy Commissioner of the WC Classification and Premium Calculation Division a report at the end of the month detailing which division closed complaints involving workers' compensation. This report is reviewed to ensure the appropriate division processed the complaint, depending on the nature of the complaint. If the complaint was not processed by the appropriate division, the entire complaint file is reviewed by the Deputy Commissioner of the WC Classification and Premium Calculation Division to determine if the complaint was handled properly and to be certain no additional action is necessary. In addition, communication among all divisions involved ensures that the process is working and that complaints are handled in the most efficient and timely manner possible.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Not applicable.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

The regulation of workers' compensation insurance varies by state. In Texas, the Commissioner of Insurance adopts the standard workers' compensation policy language and also adopts the standard endorsements/forms that are available to be used on Texas workers' compensation policies. Texas Insurance Code, Section 2052 requires insurance carriers to use the endorsements/forms adopted by the Commissioner of Insurance, but does allow an insurance carrier to submit, for prior approval, endorsements/forms that may be necessary to implement a particular workers' compensation program offered by the carrier. The staff of this division develop any additional standard endorsements/forms that may be necessary. These endorsements/forms are approved through a public hearing and become part of the standard endorsements that are available for all insurance carriers to use. In addition, a petition can be filed with TDI's Chief Clerk's Office if an insurance carrier wants to propose adoption of a standard endorsement/form that would be available for use by all insurance carriers writing workers' compensation insurance. A public hearing is held in response to the filing of such a petition and the Commissioner of Insurance makes a decision as to whether the proposed endorsement/form should be adopted.

All states and the District of Columbia have a regulatory body similar to TDI that oversees or governs all insurance matters, including workers' compensation. In 38 states and the District of Columbia, the NCCI is the "rating authority." As the rating authority, NCCI makes filings on behalf of the insurance carriers with the departments in the NCCI states pertaining to rules, classifications and endorsements/forms. There are five states that are monopolistic states, meaning that one insurance company writes all workers' compensation insurance coverage for that state. The department in each of those states considers for approval the rules, classifications and endorsements/forms filed by NCCI and either adopts as filed or adopts with state-specific modifications. The remaining eight states, including Texas, are considered "independent" states. This means the department in each state determines independently what rules, classifications and endorsements/forms are applicable for that state.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

This division oversees the insurance companies writing workers' compensation policies to be certain that insurance companies are following the statutes and rules governing workers' compensation insurance. If these functions were not performed, policyholders could pay more for workers' compensation coverage and insurance companies could use endorsements and forms that are in violation of Texas statutes and rules.

P&C's Appendix 4 includes a copy of the procedures for the various functions performed, including the process for handling complaints against insurance companies.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Property & Casualty Program WC Classification and Premium Calculation Division Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2005 and 2006		
	FY 2005	FY 2006
Total number of regulated entities (From Company Licensing)	601	613
Total number of complaints received from the public	86	89
Total number of complaints initiated by agency	0	0
Number of complaints pending from prior years	4	4
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints found to be without merit (Unjustified)	42	27
Number of complaints resolved (Justified)	40	58
Average number of days for complaint resolution	36	32

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Property & Casualty Program, Actuarial Division
Location/Division	William P. Hobby Building, Tower I, 5 th Floor
Contact Name	J'ne Byckovski, Chief Actuary
Actual Expenditures, FY 2006	\$1,017,036.45
Number of FTEs as of August 31, 2006	12

B. What is the objective of this program or function? Describe the major activities performed under this program.

The P&C Actuarial Division provides actuarial review of rate and rating plan filings to ensure rates and premiums are just, fair, reasonable, adequate, not confiscatory, not excessive and not unfairly discriminatory for the risks to which they apply. P&C Actuarial also reviews credit models for statutory compliance, conducts in-depth analyses of the Texas insurance market, and performs special studies to assist the agency and policy makers. The division assures that file and use rates meet statutory rate standards. Additionally, the P&C Actuarial Division makes recommendations on prior-approval rate filings submitted for statutorily created entities. This division is also responsible for the calculation of workers' compensation classification relativities and rating values as required by *Texas Insurance Code*, Chapter 2053.

The P&C Actuarial Division works closely with other P&C divisions and TDI programs to:

- monitor the marketplace to assist policy makers and consumers with insurance-related decisions
- improve the quality and reliability of data and market analysis projects
- draft administrative rules necessary to implement legislation
- address statutory concerns related to the rating of property and casualty lines of insurance.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

P&C Actuarial reviewed and analyzed rate filings submitted in response to Senate Bill 14, 78th Legislature, Regular Session, and this analysis culminated in mandated rate decreases for most of the top 32 insurance company groups writing homeowners insurance in Texas. In August 2003, TDI ordered the insurers to reduce homeowners rates by an average of 12.5 percent, for a total of \$511 million in rate reductions. All but one company has complied with the rate reductions, providing for the return of approximately \$350 million to policyholders. The remaining company appealed the rate reduction and the case is currently in litigation.

The review process mandated by SB 14 required the expertise and assistance of all members of P&C Actuarial staff. With the division focusing attention on filing review for SB 14, staff recognized a need to establish a system to manage all additional incoming work and rate filings. Consequently, a triage system was established where all incoming filings flowed through an assigned actuary for an initial review. This allowed staff to ensure that any filings requiring immediate action were attended to, despite the workload encountered by the SB 14 rate filings.

The success of this triage approach encouraged staff to examine processes for other ways to increase productivity and effectiveness. Staff ultimately reviewed and revitalized a previous system of assigning priority codes to incoming rate filings. The assignment of these priority codes is automated by the filings tracking system and based on the size of the company, the line of business, the proposed rate change, and whether the filer is a residual market entity or advisory organization. An enhanced triage process accompanies the assignment of priority codes. An actuary reviews the incoming rate filings to identify the proposed rate change and this information is entered into the filings tracking system. This allows the rate change to be factored into the priority code, and also ensures that this information is readily available for ad hoc reports requested by management, the Commissioner of Insurance, or legislative staff. Prior to this enhancement, staff had to manually review all pending filings to provide information for ad hoc reports, such as requests for information on average filed rate changes.

In 2006, the Chief Actuary and the Senior Actuary began using a weekly management report that provides information on the top priority filings received in the prior week. This allows management to be aware of the higher priority filings received for each line of business, their effective date, and the proposed rate change. Other reports were also developed to examine individual staff performance, including number of filings by priority code completed within selected time frames, the average number of days to complete such filings, and information on open filings. This tool allows management to monitor assignments, evaluate performance and offer additional guidance to staff as necessary.

The table below shows the number of filings received increased significantly following the passage of SB 14. In FY 2006, this number tapered off due to changes in company filing requirements, which were streamlined as a result of the adoption of the Filings Made Easy rule in FY 2005. This rule included provisions to allow insurers to make interline and dual filings. Interline filings allow a company to make one filing for multiple lines of business; TDI received 57 such filings in FY 2006. In the past, a separate filing would have been made for each line of business. Dual filings allow a company to use filed commercial rates for use in multi-peril policies without making a separate multi-peril filing, as was previously required.

Based on KEY Measure: 1.1.2 oc 3 and Measure: 1.1.2 op 3 *					
Number of property and casualty rate filings completed and percent completed within 90 days					
	FY 2002	FY 2003	FY2004	FY 2005	FY 2006
Number of rate filings received	4,433	5,216	5,212	5,038	4,636
Number of personal lines filings received	861	627	750	774	765
Number of commercial lines filings received	3,572	4,589	4,462	4,264	3,871
Number filings completed	3,990	4,061	4,483	5,402	4,298
Analysis Explanation	SB 14 (2003) significantly impacted the volume of rate filings and the methods of review required.				

*The above data is for rate filings only.

SB 14 changed review of personal lines filings from a benchmark rating system and promulgated policy forms to a file and use system. Today, rates are file and use, which allows greater flexibility of rating mechanisms and a wide variety of policy forms, such as new and innovative rating structures, including rates that vary by credit scoring or rates developed with the use of generalized linear models, or even well established pricing structures that were in place in other states. With the new rating structures and products being filed, division staff require a longer review and evaluation of the filings.

Additionally, division staff frequently receive letters from requesters thanking them for the professional and courteous manner in which they filled open records requests.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in P&C's General Management response to Section VII.D.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

P&C Actuarial is headed by a Chief Actuary who is a Fellow of the Casualty Actuarial Society. The Chief Actuary reports directly to P&C's Senior Associate Commissioner. The Chief Actuary works closely with the Senior Actuary, also a Fellow of the Casualty Actuarial Society. The actuarial team consists of six staff actuaries, one executive assistant and one administrative assistant. Of the six staff actuaries, two are Fellows of the Casualty Actuarial Society.

Texas utilizes both full time staff as well as consulting actuaries to monitor and/or review filings in accordance with state law. Most states have an actuarial department or consulting actuaries to carry out the assigned functions.

Credentialed actuaries at TDI and in the P&C Actuarial Division go through a rigorous process in order to become credentialed. The professional examination process to become a Fellow of the Casualty Actuarial Society can typically take seven to ten years and over 3,500 hours of study. The Casualty Actuarial Society also confers accreditation for an Associate of the Casualty Actuarial Society, which requires completion of a portion of the examination process. TDI actuaries expand their knowledge of actuarial principles through their efforts to become credentialed and through internal and external professional networking. In order to maintain accreditation as a member of the Casualty Actuarial Society, actuaries must meet a minimum number of biennial hours of continuing education.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

Life, Health, and Licensing (LHL) Program

LHL's Life/Health Actuarial Section performs some functions similar to the P&C Actuarial Division, but for differing lines of insurance.

Financial Program

The Financial Actuarial Division performs some functions similar to the P&C Actuarial Division. Both sections remain current on the market conditions of the property and casualty insurance industry. The annual financial statements submitted by property and casualty companies are reviewed by both sections. Size, structure and concentration of business and financial health of companies can be determined from these annual statements. The Financial Actuarial Division uses this information for the purpose of solvency review. The P&C Actuarial Division uses this information for the purpose of evaluating the appropriateness of a company's rate level.

Office of the Public Insurance Counsel (OPIC)

OPIC reviews selected rate filings for property and casualty insurance, while the P&C Actuarial Division reviews all rate filings for property and casualty insurance. OPIC acts as an advocate for insurance consumers, and is privy to filings by statute. However, OPIC makes no decisions regarding the filings reviewed.

Other State Department of Insurance

Rate regulation of property and casualty lines of insurance not only varies by state, but by line of insurance. In Texas, the rates for most lines of insurance are file and use.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Life, Health, and Licensing Program

P&C Actuarial functions separately from LHL's Life/Health Actuarial Section. Each of these sections is charged with a different line of insurance regulation, and services do not overlap.

Financial Program

The P&C Actuarial Division functions separately from the Financial Actuarial Division. Each of these sections is charged with a different aspect of insurance regulation, and services do not overlap.

Office of Public Insurance Counsel

OPIC was created to represent the interests of insurance consumers in Texas. Once a division of TDI, OPIC became a separate agency in 1991 as a result of insurance reform legislation. Acting as an advocate for insurance consumers, primarily before TDI, OPIC reviews and provides comments to TDI on selected rate filings and may recommend disapproval of rate filings. For purposes of consumer protection, OPIC has certain responsibilities that may overlap those of TDI, including reviewing selected rate filings for property and casualty insurers.

Other State Department of Insurance

Rates are set by each state; however, certain filings require multi-state review and coordination.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Not applicable.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

In general, rate regulation of the property and casualty industry is needed to ensure that rates, rating plans, and changes in such are just, fair, reasonable, adequate, not confiscatory, not excessive, and not unfairly discriminatory for the risks to which they apply. There is harm when consumers are overcharged for their insurance needs. Furthermore, if rates are inadequate, the public is harmed by companies that become insolvent.

The P&C Actuarial Division also performs some market analysis for the various lines focusing on annual statements and statistical plan data to monitor industry loss ratios, profitability by line of insurance, market concentrations, and market conditions of major lines of insurance. These measures identify companies that require further analysis of their rates, and can result in requests for the selected companies to submit rate filings justifying the current rates or proposing to revise rates. In instances where rates are not justified or do not meet the applicable statutory rate standards, a referral for disciplinary action is made to the Enforcement Program. Possible actions against non-compliant companies include disapproval of rate and/or fines.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Property & Casualty Program, Data Services Division
Location/Division	William P. Hobby Building, Tower I, 5th Floor
Contact Name	Gary Gola, Director
Actual Expenditures, FY 2006	\$387,094.69
Number of FTEs as of August 31, 2006	8

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Data Services Division supports the mission of P&C through a variety of activities and functions. The major activities performed by Data Services are as follows:

- provides data analysis
- collects information through statistical plans, special calls and surveys
- produces data compilations, including data for P&C Actuarial Division rate review
- collects and maintains statistical data
- produces statistical reports for the Legislature, the agency, the public and the insurance industry
- oversees TDI's designated statistical data collection agents
- administers and assists with the collection and review of underwriting guidelines
- supports the Title Division by:
 - collecting information specified in the Title statistical plan
 - auditing reports submitted by both agents and underwriters, and
 - producing annual reports for use by the public, the industry, and parties to rate hearings.
- obtains data through downloads from the National Association of Insurance Commissioners (NAIC) computer database, and
- maintains the HelpInsure.com online bulletin board, which assists in matching consumers looking for homeowners insurance with agents writing homeowners insurance.

Data collection and compilation activities of this division include:

- Quarterly Legislative Report on Market Conditions, based on premium and loss data collected in the Quarterly Call for Experience
- Texas Liability Closed Claim Report, which includes data on the final disposition of Texas claims of more than \$10,000
- Texas Title Insurance Agents and Underwriters Reports, which collect information on income and expenses in the title insurance industry
- disallowed Expense Report, which collects data on insurer expenses that, by statute, may not be considered in the determination of rates
- the State of Texas Property and Casualty Insurance Experience by Coverage and Carriers (often called the Texas Statutory Page 14 Report)
- the Insurance Expense Exhibits, which are compilations of data downloaded from NAIC
- providing data for calculating assigned risk automobile quotas for the Texas Automobile Insurance Plan Association (TAIPA)
- providing data for calculating insurer participation levels in the Texas Windstorm Insurance Association (TWIA), and

- providing data for pricing newly proposed or adopted residential property and automobile endorsements.

Additionally, Data Services oversees designated statistical data collection agents for compliance with quality standards in the collection of Texas data. Currently, the National Council on Compensation Insurance (NCCI) collects workers' compensation data; the Texas Insurance Checking Office (TICO) collects private passenger automobile data; and the Insurance Services Office (ISO) collects commercial lines data. Oversight includes modifying statistical plans, ensuring compliance with TDI performance standards, overseeing statistical agent audits, resolving problems between reporting companies and the statistical agents and ensuring the delivery of data for regulatory purposes. Workers' compensation data is collected as specified by the Texas Workers' Compensation Statistical Plan, the Texas Detailed Claim Information Statistical Plan and the Texas Workers' Compensation Financial Call Plan, while private passenger automobile and commercial lines data are collected in accordance with the Residential Property Statistical Plan, the Private Passenger Automobile Statistical Plan and the Commercial Lines Statistical Plan.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Data Services Director monitors reporting deadlines and uses these to determine if functions are being performed as required. Some of these deadlines include providing:

- data to TAIPA on a quarterly basis for calculating quota assignments.
- premium data to TAIPA/TWIA on an annual basis for calculating assessments.

Data and analysis produced by the Data Services Division have been used in efforts of tort reform, rate rollbacks, in response to legislative inquiries and research, and for market monitoring. The information gathered and analyzed is used to help policymakers, including the legislature, make decisions and anticipate how those decisions may affect the market. Recent examples are the medical malpractice reforms enacted by the Legislature in 2003, addressing insurance availability along the coast in relation to wind coverage, and addressing policy coverage as a result of the mold crisis in 2002.

1.1.1 output 5 - Number of TDI calls to insurance industry for data					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	14	15	21	17	19
Annual Target	14	14	14	14	20
Percentage of Target	100.00%	107.14%	150%	121.43%	95.00%
Analysis/ Variance Explanation	Targets are based on "standard" data calls that are regularly scheduled. When the actual performance greatly exceeds that target it is usually related to major changes in the insurance markets.				

1.1.3 explanatory 3 - Number of underserved markets identified for residential property insurance					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	411	411	411	411	411
Annual Target	411	411	411	411	411
Percentage of Target	100%	100%	100%	100%	100%
Analysis/ Variance Explanation	These markets are set to give incentives to the insurance industry to write business where it is historically difficult for consumers to find coverage on their own. These areas are not changed very often in order to offer some stability and to allow time for the market to adjust to their needs.				

1.1.3 explanatory 4 - Number of underserved markets identified for automobile insurance					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	387	387	387	387	387
Annual Target	387	387	387	387	387
Percentage of Target	100%	100%	100%	100%	100%
Analysis/ Variance Explanation	These markets are set to give incentives to the insurance industry to write business where it is historically difficult for consumers to find coverage on their own. These areas are not changed very often in order to offer some stability and to allow time for the market to adjust to their needs.				

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

History is presented in P&C's General Management response to Section VII.D.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Data Services is led by a Director who oversees one statistician, two program specialists and two research specialists. The Director reports to P&C's Senior Associate Commissioner. In addition to fulfilling a supervisory role, the Director shares in the tasks assigned to the division. Data Services staff are cross-trained on various data collection efforts. While there is generally a lead person assigned to a task, it is not uncommon for two or three staff to participate in a data collection effort at any given time to assure compliance with due dates for various submissions and reports.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

Workers' Compensation Research and Evaluation Group

The Workers' Compensation Research and Evaluation Group (REG) serves as a resource for the Commissioner of Insurance on workers' compensation issues. One of the REG's functions includes conducting professional studies and objective research related to issues such as the delivery of benefits to injured employees, the rehabilitation and reemployment of injured employees, and employer participation trends in the workers' compensation system. One source of information made available to the REG is experience collected by the Data Services Division via the Workers' Compensation Statistical Plan. The REG is not involved in the day to day details of collecting, editing, and seeking corrections of this data or in managing the designated statistical agent, but it is an end-user of the information.

Life, Health, and Licensing Program

The Life, Health and Licensing Program may provide data collection and reporting services similar to the Data Services Division, but its information is specific to life and accident and health products whereas the P&C Data Services Division is specific to property, casualty, and liability lines of insurance. These products have traditionally been regulated by separate programs due to the differences in expertise and fields of study that are involved.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The data collected by the division is unique to Texas and not available elsewhere. While TDI cannot ensure other entities do not collect this same information, no other entity has the statutory authority to do so. As insurers are very protective of their data, it is unlikely they would provide data to anyone who does not have the authority to require it. The Data Services Division is not aware of any other entity that has the ability or authority to collect data as detailed or comprehensive as that collected by TDI.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Not applicable.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

For market analysis purposes, TDI promulgated statistical plans to be used by each insurer to record and report premium, loss and expense experience, as well as other data, for each line of business. As authorized by Texas Insurance Code, Section 38.202, Texas designates statistical agents for the "Texas Statistical Plan for Residential Risks," the "Texas Private Passenger Automobile Statistical Plan," and the "Texas Commercial Lines Statistical Plan." Presently, the designated statistical agents are TICO, ISO, and NCCI.

Texas designates statistical agents and promulgates statistical plans and data calls in order to customize collected information to meet TDI needs. This method allows the flexibility to gather data that can directly meet the needs of the Texas insurance market. Most states use NCCI to calculate workers' compensation premiums in accordance with its manual rules. Exceptions include Texas, California, New York and Michigan. Similar to Texas: California produces an annual market data report using the NAIC annual statement data; Illinois collects closed claim information, but only for the medical malpractice line of business; and New Mexico collects a significant amount of income and expense information from title agents and underwriters to use in setting promulgated rates. For market analysis, most other states use national advisory organizations such as ISO or Independent Statistical Services, Inc. to access statistical experience.

In Texas, designated statistical agents are authorized to perform activities required to ensure that companies comply with the reporting requirements for the statistical plans as adopted by the Commissioner of Insurance. While this is an outsourced function, payments do not come directly from TDI. Instead, insurers licensed and writing in Texas pay fees directly to the designated statistical agents. Companies that do not comply with reporting requirements pay penalties to the statistical agent other than NCCI as an incentive to bring them into compliance, as well as to offset expenses incurred in the process of collecting delinquent and incorrect experience. NCCI does not charge penalties to delinquent companies; instead, companies are subject to quality incentives where their fees can increase or decrease based on the quality of reporting. TDI established performance standard agreements with each statistical agent that specify deliverables. Data Services regularly receives reports from the statistical agents that are used to determine if responsibilities are being met.

Insurers submit quarterly and annual statements to NAIC. However, it is not possible to distinguish

Texas- only information by line of insurance in the NAIC reports. Therefore, the Data Services Division collects Texas data by line of insurance to compile the mandated Quarterly Legislative Report on Market Conditions. This report allows TDI and the Legislature to monitor Texas market changes for each line of insurance. Data is collected for several commercial lines of insurance as well as private passenger automobile and homeowners. In addition, the Quarterly Legislative Data Call requests information on the workers' compensation residual markets and participation in workers' compensation deductible plans, which are not reported on the NAIC quarterly statements.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Workers' Compensation Research and Evaluation Group (REG)
Location/Division	William P. Hobby Building, Tower I, 5th Floor
Contact Name	Amy Lee
Actual Expenditures, FY 2006	\$418,008.75
Number of FTEs as of August 31, 2006	4

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Workers' Compensation Research and Evaluation Group (REG) conducts professional studies and research on the Texas workers' compensation system.

REG also produces an annual consumer report card comparing TDI-certified workers' compensation health care networks with one another and with non-network claims. HB 7 (2005) requires the first report card to be published in September 2007. Additionally, REG produces a biennial report evaluating the impact of the reforms enacted by the 79th Legislature on the cost and the quality of medical care provided to injured employees. The first biennial report will be issued by December 1, 2008.

REG disseminates its research findings through reports on the TDI website, legislative hearings, and speeches to stakeholder groups, workers' compensation workgroups, and at public hearings.

In addition to its research activities, REG regularly performs the following activities:

- responds to information requests regarding workers' compensation issues
- provides stakeholder education through its reports and speeches to various organizations
- submits comments on proposed rules, Commissioner bulletins, and articles
- produces data for market conduct examinations and enforcement investigations
- prepares information for legislative offices, helps draft bills, and provides legislative testimony.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

REG's effectiveness is best demonstrated by the use of its research findings by legislators, administrators, and workers' compensation system participants. During the Sunset review of the Texas Workers' Compensation Commission, Sunset Advisory Commission staff used REG statistics as a basis for their recommendations and in the Sunset staff report. Sunset staff also cited the results of REG's comparison of the four state workers' compensation programs (i.e., the State Office of Risk Management, UT System, Texas A&M University System, and the Texas Department of Transportation) during their evaluation of the State Office of Risk Management in 2006. Legislative offices often use REG research results to provide justification for new legislative initiatives, explain the impact of previous legislation, or to provide information on how other state workers' compensation systems implement similar initiatives.

One recent example is the testimony REG provided on proposed bills during the 80th Legislature regarding Texas licensure of peer review and utilization review doctors (HB 1003 and HB 1006).

REG has no strategic performance measures, but is mandated to complete all of the projects on its annual research agenda. In fiscal year 2006, REG completed 12 projects, which included a combination of research plans, statistical analyses, research reports, and surveys of employers and injured workers. Project results can be found on the TDI website at www.tdi.state.tx.us/wc/regulation/roc/index.html.

Issues on the approved research agenda for FY 2006 included:

- development of the workers' compensation health care network report card
- analysis of injured worker survey to collect baseline information on issues
- creation of the research design to assess the impact of certified workers' compensation health care networks
- analysis of access to medical care provided under the Approved Doctor List (ADL)
- update of 2004 study to estimate employer participation in the Texas workers' compensation system
- update of study comparing the medical and indemnity costs of the various state workers' compensation programs
- analysis of the frequency, duration, and outcome of medical disputes
- analysis of return-to-work outcomes for injured workers
- development of a Designated Doctor and peer review doctor monitoring plan
- analysis of medical bill and compensability claim denial trends in the Texas workers' compensation system
- analysis of the frequency, duration, and outcome of income benefit dispute hearings
- creation of a research design to analyze the adequacy of income benefits paid to injured workers.

REG is implementing its FY 2007 research agenda projects, including the creation of the nation's first workers' compensation health care network report card. The FY 2006 and 2007 research agendas are available on TDI's website at the above web address.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

1988 - The Joint Select Committee on Workers' Compensation issued a comprehensive report calling for major reform of the Texas workers' compensation system. One of the report's conclusions was that Texas did not collect adequate data to track its own performance over time and that, as a result, the state was too dependent on the anecdotal findings of special interest groups during policy debates.

1989 - Overhaul of the Texas workers' compensation system included creation of the Texas Workers' Compensation Research Center to serve as an independent source of workers' compensation research findings.

1995 - The 74th Legislature merged the Research Center and the Legislative Oversight Committee on Workers' Compensation to form the Research and Oversight Council on Workers' Compensation (ROC). The ROC, governed by a nine-member legislative and regulatory board, performed both research and oversight functions for the system and state agencies involved in workers' compensation (such as the Texas Workers' Compensation Commission, TDI, the state workers' compensation programs, etc.).

2003 - HB 28, 78th Legislature, Third Special Session, transferred ROC's research function to TDI after the Governor vetoed funding for ROC in the General Appropriations Act.

2005 - The 79th Legislature renamed ROC the "Workers' Compensation Research and Evaluation Group" (REG) and clarified its statutory role to analyze both the effectiveness of the system and the impact of HB 7 reforms on medical costs, access to and satisfaction with medical care, and return-to-work outcomes.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

REG research findings are routinely used by legislators, administrators, and the public to make policy and regulatory decisions regarding the operational effectiveness of the Texas workers' compensation system.

System participants that are directly or indirectly affected by the results of REG's work include:

- approximately 300,000 employers (both subscribers and nonsubscribers to the workers' compensation system)
- 200,000 plus employees injured each year
- approximately 20,000 health care providers providing services within the system
- 400-500 insurance carriers providing workers' compensation coverage to Texas employers
- 27 TDI-certified workers' compensation health care networks.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

REG is led by a Research Director who reports directly to the Commissioner of Insurance. In addition to the Research Director, the group consists of a program specialist and three research specialists. REG's professional development program consists of internal training by REG and DWC staff on the administration of the Texas workers' compensation system, existing workers' compensation databases and data reporting requirements, and workers' compensation legislation. REG also utilizes training on advanced computer software packages such as SAS statistical software or GIS mapping software. To maintain a successful program, REG relies heavily on significant cross-training among staff and on project management skills that allow multiple projects to be administered at the same time. REG staff plan and manage projects, write computer programs, analyze data, present research findings, and extrapolate findings to assist administrators and policymakers with policy decisions.

One challenge REG faces is the lack of a significant career ladder for researchers to improve employee retention. Individual promotions (within the Research Specialist series) and merit raises are available to encourage employee retention; however, REG's relatively small size limits its ability to provide significant career growth for individual researchers. As a result, REG often recruits new graduates and previous interns, trains them on workers' compensation issues, and then loses them to the private sector or other state agencies with larger research programs (such as the Texas Education Agency or Texas Workforce Commission).

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

REG is funded by a maintenance tax collected on all workers' compensation insurance carriers and self-insurance groups, with the exception of government entities. This maintenance tax is separate from the maintenance tax collected to fund the Division of Workers' Compensation. REG's maintenance tax is capped statutorily at one-tenth of 1 percent of gross premiums collected by workers' compensation insurance carriers and one-tenth of 1 percent of the total tax base for workers' compensation self-insured employers. In accordance with Texas Labor Code, Section 405.003 (e), REG's maintenance tax collections are deposited into General Revenue and transferred to TDI's operating account for REG functions.

Additionally, REG has the ability to seek and accept grant funds (Texas Labor Code, Section 405.002). REG is not currently participating in any grant-funded projects.

H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.

No TDI programs perform identical functions as REG. There are, however, programmers, data analysts, and research specialists who report to the Executive Deputy Commissioner for Policy and Research at DWC who perform some similar functions. DWC Policy and Research's main functions are to respond to open records requests, maintain the databases REG uses in its research, run DWC quarterly and annual performance measures, monitor and analyze complaint and compliance data, and run ad-hoc reports to support DWC's regulatory actions. In contrast, REG's main functions are to conduct more detailed statistical analyses on broader issues such as employer participation, worker perceptions of the system, medical costs and cost drivers, return-to-work rates, and the impact of workers' compensation health care networks. In addition, REG researches other state workers' compensation systems to gather information for legislative and regulatory policy discussions.

REG and DWC Policy and Research work closely on data collection, cleaning, and maintenance to ensure that the data sources used for both sets of analyses (DWC ad-hoc reports and more detailed REG research projects) are complete and high in quality.

TDI's Property and Casualty (P&C) Data Services Division collects and manages the agency's statistical plans for various P&C lines of insurance, including workers' compensation, homeowners, private passenger auto, and commercial lines. In particular, P&C Data Services oversees the agency's Workers' Compensation Statistical Plan (which collects workers' compensation loss information at the policy level) and the Detailed Claim Information (DCI) Statistical Plan (which collects detailed claim information for workers' compensation claims with at least \$5,000 of incurred losses). This includes management of the designated statistical agents for these plans. REG is an end-user of the DCI data collected by P&C Data Services but is not involved in the day-to-day functions of collecting, editing, and correcting this data. Externally, groups such as the Workers' Compensation Research Institute (WCRI) and the National Council on Compensation Insurance (NCCI) conduct periodic multi-state research projects. These groups provide an important source of information regarding multi-state trends that are not possible to track using Texas data alone. However, external groups are limited in the types of data they can access (for instance, they do not have access to multi-state impairment rating or dispute resolution data) and in their ability to interpret and apply their findings in the context of Texas' unique workers' compensation system.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

REG works closely with DWC to develop a research agenda that reflects the needs of DWC and other system participants. Additionally, on projects that have a particular interest to DWC, REG provides copies of research plans, timelines, and proposed methods to DWC for review and input. Once preliminary findings are available, REG forwards them to DWC and/or briefs DWC staff. No specific MOUs exist between REG and DWC since the sharing of data among these two entities is stipulated by statute (Texas Labor Code Chapter 402).

REG's state and national outreach activities and association memberships also serve to minimize duplication with external research groups. For example, REG's membership in the national Workers' Compensation Research Group ensures ongoing awareness of research that may have goals similar to the research agenda projects. REG communicates with WCRI and NCCI to ensure that there is no duplication of effort between REG's state-based research activities and their multi-state research projects.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

REG works regularly with other state agencies on issues of policy, research, rules, legislation, and data collection.

Texas Workforce Commission (TWC)

TWC oversees and provides workforce development services to Texas employers and employees. REG works with TWC to acquire employee wage data to support research projects that monitor return-to-work and wage patterns of injured employees. Additionally, REG uses TWC's master employer database as a source of information for its biennial survey regarding employer participation in the Texas workers' compensation system.

Department of Assistive and Rehabilitative Services (DARS)

DARS provides vocational rehabilitation services to injured employees and disabled employees without work-related injuries. REG and DWC are working with DARS to collect outcome data regarding vocational rehabilitation referrals DWC made to DARS. The purpose of the data collection is to track existing referral trends and, if possible, identify ways to improve the referral process and return-to-work outcomes for injured employees.

State Workers' Compensation Programs and Political Subdivisions

State workers' compensation programs include the State Office of Risk Management, the University of Texas System, Texas A&M University System, and the Texas Department of Transportation. Political subdivisions include counties, school districts, cities, etc. The Texas Labor Code defines state workers' compensation programs and political subdivisions as insurance carriers. Therefore, they interact with TDI as regulated entities and are responsible for reporting data to TDI the same way that commercial insurance carriers are required to report data. Many of these entities are self-insured or have special exemptions in their statutes relating to the use of sick and annual leave in lieu of income benefits or the use of alternative dispute resolution and health care delivery systems. It is important to be able to track these entities' performance so they can be compared not only with one another, but also with commercial insurance carriers.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

REG performs its statutory research duties primarily using internal resources. However, it does use university survey centers as necessary to administer large telephone surveys of injured workers and employers. Given REG's small size, utilizing a university survey center to administer large-scale telephone surveys is more cost-effective (around \$24 per completed survey) and results in more timely completion of the survey. When survey services are contracted out, REG develops and tests the survey instrument and draws the survey sample internally before providing it to the university survey center. The scope of work attached to the interagency contract specifies what functions are to be performed by REG and the contracted entity, the timeframe for completion, and the target number of surveys to be conducted.

REG either participates in the training of survey interviewers if it is a new survey or updates the training materials for previously conducted surveys. During the survey, REG receives a weekly disposition report, which provides information on how many phone calls were made, the outcomes of the calls, the total number of completions, and the total amount of survey sample left. To maintain quality assurance, REG may call in to any of the surveys as an anonymous listener or randomly visit the survey center.

Once all of the surveys have been conducted, the university survey center provides REG with the raw data, a brief (four- or five-page) methodology report outlining any issues that occurred during survey administration, a final disposition report, and the response rate calculated for the survey. REG has limited the use of interagency contracts to only the services that it cannot reasonably perform internally, and has implemented several safeguards to ensure that the progress of these interagency contracts are consistently tracked for quality assurance and timely completion.

An attachment to the TDI Self-Evaluation Report lists agency contracted expenditures by program area.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

HB 7 (2005) amended REG's enabling statute to require adoption of an annual research agenda and to enhance confidentiality provisions for REG work papers. REG does not anticipate the need for additional statutory changes during the 2009 legislative session.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

Not applicable.

- O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	State Fire Marshal’s Office, General Management
Location/Division	William P. Hobby Building, Tower I, 12th Floor
Contact Name	Paul Maldonado, State Fire Marshal
Actual Expenditures, FY 2006	\$350,747.91
Number of FTEs as of August 31, 2006	7

B. What is the objective of this program or function? Describe the major activities performed under this program.

The State Fire Marshal leads the State Fire Marshal’s Office (SFMO) general management. The primary objective of general management is to provide program-wide management and operational support for the SFMO program and its four divisions. Program-wide management and operational support activities include strategic and budget planning; responding to field staff needs; responding to legislative requests; research assistance; project management; and various administrative support duties. The four SFMO divisions, which are described in greater detail in separate Section VII responses, are the following:

- Fire Safety Inspections (“Inspections”)
- Arson Investigation Services (“Investigations”)
- Fire Industry Licensing Services and Investigations (“Licensing”)
- Fire Prevention and Outreach (“Outreach”).

As the state agency authorized to protect citizens from fire and fire-related tragedy, SFMO accomplishes its statutory duties by:

- inspecting and correcting hazards in buildings and situations involving dangerous fire conditions
- investigating cause and, in the event of arson, assisting with the prosecution of alleged arsonists
- regulating the fire extinguisher, alarm, sprinkler and fireworks businesses to assure that the public is served by competent firms and individuals, and
- providing education and outreach to the public to further prevent fire emergencies.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

SFMO’s general management contributes to the overall effectiveness and efficiency of the program’s divisions. Although general management does not report key statistics or performance measures, the State Fire Marshal works with division directors to gain a greater understanding of the problems and trends associated with fires and to identify opportunities for improving program effectiveness. Specifically, the State Fire Marshal’s Office recently shifted its service delivery model to be more proactive. The strategy includes reprioritizing operations to enhance service quality, with the goal of

reducing the loss of life and property on the broadest scale possible. The delivery model encompasses all areas of the state, not just those communities that receive direct inspection or investigation services.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

1910 – The 31st Texas Legislature established the duties of the State Fire Marshal. The duties were to investigate fires to determine causes, inspect buildings to identify fire hazards, and to ensure hazards were removed or corrected.

1975 – The 64th Texas Legislature established the State Fire Marshal’s Office (SFMO) separate from the Insurance Department (SB 925).

1991 – The 72nd Texas Legislature removed the SFMO from the Texas Department of Insurance (TDI) and merged it with the Texas Commission on Fire Protection (SB 383).

1997 - The 75th Texas Legislature returned SFMO to TDI (SB 371).

2001 – The 77th Texas Legislature empowered the SFMO to investigate the manner and cause of firefighter line-of-duty deaths (HB 1450).

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

SFMO’s general management affects all SFMO divisions by providing administrative support and coordination of resources within the program. Additionally, SFMO’s general management works with TDI support services and TDI programs to coordinate resources and manage projects at the agency level.

All SFMO divisions, including general management, ultimately affect the general public. SFMO’s fire safety and prevention programs directly target the fire service and safety industries, and the general public. SFMO’s receptionist position is often the first point of contact for customers needing to reach the program via phone and in person.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Based on the February 2007 organizational chart, five administrative staff support the State Fire Marshal. Additionally, a Special Assistant State Fire Marshal and four Assistant State Fire Marshals report to the State Fire Marshal on matters related to the operations of the program’s regulatory activities. The SFMO also has 37 field employees working throughout the state.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

Additionally, the SFMO received federal grant funds during FY 2004 and FY 2005 to procure a new fire safety house and fire safety educational materials.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

All programs within TDI perform general management functions. Additionally, SFMO's general management performs administrative duties in coordination with TDI's Administrative Operations program.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

By coordinating with TDI's Administrative Operations program, SFMO's general management is able to administer operational expenses and program business needs allowing division staff to focus on regulatory duties.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The State Fire Marshal works with the fire service industry as well as state, local, and federal entities on fire protection issues.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The State Fire Marshal's Office mission is to prevent and reduce the loss of life and property due to fire. While this mission is designed to protect the citizens of the state, it simultaneously benefits the insurance industry in Texas. When fires are prevented or fire loss is reduced, the number and the amount of insurance claims are also reduced, resulting in overall cost savings to the industry and its customers. In this capacity, the missions of TDI and the SFMO are mutually supportive.

At times, TDI's focus on insurance regulation overshadows SFMO's goals to serve Texans by upholding life safety standards through inspections, investigations, licensing, and outreach and education. Furthermore, the SFMO's position as a program within TDI often results in other government officials not recognizing TDI as a public safety authority and consequently failing to consult SFMO on major fire safety and other public safety issues. The lack of consultation hinders SFMO's ability to identify and respond to the needs of the public.

Another challenge of the current structure is that the relationship between TDI and the insurance industry precludes SFMO's acceptance of donations from the industry for outreach and education initiatives. SFMO could increase service delivery to the state by forming a partnership with the insurance industry. A partnership with the insurance industry could assist SFMO in disseminating fire prevention information on a broad scale; however, as a program within TDI, accepting donations and grants from the insurance industry would be perceived as a conflict of interest, as TDI's primary role is to regulate the insurance industry.

Following is a detailed list of possible SFMO organizational arrangements and commentary about their merits.

SFMO as a Program within TDI or Other State Agency

Since returning to TDI in 1997, the SFMO has successfully met performance measures and effectively served the fire protection needs of the state. If the SFMO continues to function as a program within TDI, or as a program of another state agency, SFMO will continue to benefit from the agency's administrative support services, including: legal services, human resources, information technology, budget, purchasing, and strategic and business planning. This model is cost effective to the state and has allowed SFMO to focus on fire prevention and regulatory activities.

SFMO Administratively Attached to TDI or Other State Agency

To eliminate the issues associated with being part of TDI, the legislature could consider making SFMO a separate state agency, which is administratively attached to TDI or another state agency. This organizational design would expedite SFMO's responsiveness to customer needs by eliminating unnecessary reporting command structures. Additionally, the SFMO could benefit from being granted the autonomy to directly represent the needs of the communities it serves. As the SFMO's chief executive and administrative officer, the State Fire Marshal would have full responsibility and control over resources, budget, and strategic direction, allowing SFMO to determine the best approach for meeting its statutory obligations. Under this model, however, the SFMO would also be responsible for providing certain support and administrative services, such as legal services, budget, strategic and business planning, which would require additional staff resources.

Establishing the SFMO as an autonomous entity would also allow SFMO to partner with the insurance industry on fire prevention initiatives without resulting in a conflict of interest. The agency to which the

SFMO is administratively attached would continue to provide administrative assistance and services to the SFMO, including purchasing, personnel and financial services, and computer equipment and support.

SFMO as an Independent Agency

Operating as an independent agency would have similar benefits to the administratively attached organizational structure in that the SFMO would be autonomous; however, SFMO would require additional resources to administer support services. The statewide government philosophy directs that government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes. Expending additional resources to establish the SFMO as a stand-alone agency would be a possible negative impact of this option.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency=s practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	State Fire Marshal's Office, Fire Safety Inspection
Location/Division	William P. Hobby Building, Tower I, 12th Floor
Contact Name	Richard Bishop, Assistant State Fire Marshal and Division Director
Actual Expenditures, FY 2006	\$756,138.69
Number of FTEs as of August 31, 2006	14

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Inspections Division conducts fire safety inspections of public buildings and private facilities in Texas, including 24-hour care facilities, state buildings, universities, prisons, day-care centers, hotels, and motels. Inspections are conducted based on statutory or contract obligations, hazard mitigation projects, or in response to a request or complaint.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

To optimize fire safety efforts and leverage SFMO resources, the Inspections Division has shifted its service delivery model from solely inspecting facilities to a more holistic approach, which includes physical inspection, evaluation of procedures, policies, maintenance activities, and communications within large entities.

In FY 2006, the Inspections Division inspected or reinspected 5,172 buildings for fire safety hazards, which surpassed the target number of 4,643 inspections. The average cost to conduct a fire safety inspection was \$141.49, which is less than the target cost of \$145 per inspection.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The SFMO General Management's Section VII.D response provides program history.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

All SFMO programs ultimately affect the general public. The SFMO Inspections Division affects business owners and managers, especially those operating under a license issued by the state requiring a

fire inspection, such as state-owned facilities, including facilities operated by the Texas Building and Procurement Commission, State Preservation Board, Texas Youth Commission and Texas Department of Criminal Justice.

No licenses or permits are issued by this division.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Inspections director oversees 14 employees. Three employees located in Austin are tasked with providing fire safety services to state-owned buildings and supporting the Capitol Complex fire safety program. A supervisor, located in the field, oversees nine field employees who provide fire safety inspections to the entire state. An administrative technician at the Austin Headquarters performs clerical, data entry, correspondence management and other duties for the Inspections Division. This information is based on the February 2007 organizational chart.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and worker's compensation industries.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

TDI's OSHCON program conducts non-regulatory occupational safety and health inspections upon request for small, private Texas employers, which includes review of fire safety hazards.

If a city or county has a fire marshal, then the city/county fire marshal conducts inspections. However, city/county fire marshals do not have jurisdiction to perform inspections of state-owned properties.

Some state agencies have employees that evaluate the fire safety of facilities as part of a larger evaluation for compliance with that agency's rules and standards. These agencies include the Department of State Health Services (DSHS) and the Department of Family and Protective Services (DFPS). Additionally, the Texas Department for Aging and Disability Services (DADS) has staff that conduct fire safety inspections as part of that agency's licensing procedures.

State Office of Risk Management (SORM) specialists conduct safety program evaluations to assist state agencies in establishing employee health and safety programs designed to provide a safe and healthful environment for agency employees and the public served by the agencies. These evaluations include fire safety hazards.

The Texas Building and Procurement Commission (TBPC) is responsible for maintaining and operating approximately 15.5 million square feet of state-owned office space, parking garages, and parking lots as

well as commercial lease space occupied by state agencies. As such TBPC is responsible for the safety of employees working in state occupied facilities. The SFMO inspects the buildings for which TBPC is responsible.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

When a request for an inspection is received, SFMO staff first check to see if the affected city/county has a fire marshal. If so, the requester is asked to contact that individual. If the inspection focuses on a state-owned facility, the SFMO conducts the inspection as local fire marshals lack jurisdiction.

SFMO, upon request, provides assistance in code interpretation and technical expertise to DSHS, DFPS, and DADS. These agencies are also used as an alternate resource to facilitate compliance of regulated entities during enforcement proceedings. When a business licensed by a state or federal agency fails to correct fire safety violations, inspectors contact the agency with regulatory authority over the business. SFMO informs the oversight agency that an unsafe situation exists and has not been corrected voluntarily. The licensing or regulatory agency then takes the appropriate action to prompt the regulated entity to correct unsafe conditions.

Additionally, SFMO reports fire safety violations in state buildings to TBPC as well as SORM. TBPC and SFMO coordinate agency responsibilities by means of a memorandum of understanding that specifies each party's role. SFMO has identified an opportunity to improve coordination with SORM on fire safety inspections of state buildings.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Inspectors work with local code enforcement, law enforcement, fire service officials, state agency and university officials, when appropriate, to ensure compliance with applicable fire safety standards. Additionally, the Inspections Division provides consultation services to regional or federal agencies upon request.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Health and Safety Code 753 provides authority to the SFMO for the inspection of above ground storage tanks for flammable liquids; however, the statute concurrently provides initial licensing authority to the Texas Commission on Environmental Quality (TCEQ), which has not adopted the technical standards for tank installation and operation adopted by the SFMO. This is problematic because businesses do not receive guidance on installing above ground storage tanks in compliance with this statute and adopted rules. This creates an enforcement problem as businesses are operating under the assumption that they are in full compliance because they successfully registered their above ground tank with TCEQ. SFMO recommends a review of this statute.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- **why the regulation is needed;**
 - **the scope of, and procedures for, inspections or audits of regulated entities;**
 - **follow-up activities conducted when non-compliance is identified;**
 - **sanctions available to the agency to ensure compliance; and**
 - **procedures for handling consumer/public complaints against regulated entities.**

The Inspections Division does not license, register, or require a permit from any person, business or other entity. However, the SFMO, by law, is entitled to enter any building or premises in the state in order to assess compliance with fire safety standards. SFMO's Inspections Division performs these duties and may pursue enforcement actions for any fire safety violations against the occupant or owner of the building or premises. Therefore, occupants or owners of buildings in Texas may be considered "regulated entities" when it comes to complying with local and state fire safety standards.

Why the Regulation is Needed

Inspections of public buildings and private facilities in Texas, including 24-hour care facilities, state buildings, universities, prisons, day-care centers, hotels, and motels as well as flammable liquids inspections of retail service stations are necessary to reduce loss of life and property due to fire. In many communities throughout the state, the SFMO's inspections services are vital to mitigating fire-related losses because the communities do not have personnel that provide the services.

Scope of, and Procedures for, Inspections of Regulated Entities

Texas Government Code, Section 417.008 grants the SFMO the right of entry, examination, and correction of dangerous conditions. Inspections are conducted based on statutory or contract obligations, hazard mitigation projects, or in response to a request or complaint. The State Fire Marshal has the authority to order the removal of a building or structure if the building's existing conditions are dangerous or are liable to cause or promote fire or create danger for fire fighters, occupants, or other buildings or structures.

Furthermore, as previously mentioned, the SFMO is charged with the responsibility of inspecting state-owned buildings for existing or eminent fire hazards.

Follow-up Activities Conducted When Non-Compliance is Identified

Each inspection requires an initial survey and subsequent communications to establish timelines for corrections and to establish the methods of correction. Each building is reinspected at various stages of correction and after completion of corrections to verify repairs. On-going communication is essential to ensure cost effective, prompt compliance.

Sanctions Available to the Agency to Ensure Compliance

The State Fire Marshal may, if necessary, apply to a court of competent jurisdiction for writs or orders necessary to enforce this section, and the court may grant appropriate relief. The State Fire Marshal is not required to give a bond.

Additionally, Texas Government Code, Section 417.0082 grants the State Fire Marshal the authority to take any action necessary to protect a public building under the charge and control of the Texas Building and Procurement Commission and the building's occupants, against an existing or threatened fire hazard.

For violations of flammable liquids standards, the Texas Health and Safety Code, Chapter 753 grants the State Fire Marshal the authority to enforce the law and pursue various civil and criminal penalties as necessary.

Procedures for Handling Consumer/Public Complaints against Regulated Entities

Texas Government Code, Section 417.008 on the complaint of any person, the State Fire Marshal, at any reasonable time, is entitled to enter any building or premises in the state.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency=s practices.

As reflected in Section VII.C, SFMO inspected or re-inspected 5,173 buildings in Texas. Some of the inspections may have been initiated as the result of complaints.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	State Fire Marshal's Office, Arson Investigation Services
Location/Division	William P. Hobby Building, Tower I, 12th Floor
Contact Name	Mark Lockerman, Assistant State Fire Marshal and Division Director
Actual Expenditures, FY 2006	\$1,424,864.69
Number of FTEs as of August 31, 2006	24

B. What is the objective of this program or function? Describe the major activities performed under this program.

The State Fire Marshal is the chief investigator in charge of the investigation of arson and suspected arson in the State of Texas. The State Fire Marshal commissions peace officers to act as fire and arson investigators and to perform other law enforcement duties. Fire/arson investigation assistance to local communities is one of the most critical services provided by the SFMO. Upon a request from an authorized entity, or by order of the State Fire Marshal, the Arson Investigation Services Division dispatches appropriate resources to the scene of a fire. The purpose of these services is to determine the cause and origin of the fire and to assist local officials in the collection and analysis of evidence that may lead to prosecution of an alleged arsonist.

Major activities conducted by the Investigations Division also include responding to Arson Hotline tips, providing arson lab services to the fire service industry and law enforcement entities throughout the state, and investigating firefighter line-of-duty fatalities. The Arson Hotline is a toll-free number for the public to report suspicious activity involving fires. The hotline, 1-877-4FIRE45 (1-877-434-7345) is staffed through the company Stenocall 24 hours a day. Stenocall relays the information received on the hotline to the Director of Investigations via email. The Director of Investigations routes this information to SFMO investigators or to the appropriate local agency.

During a fire/arson investigation, SFMO makes use of specially trained canines to aid with evidence collection. Canine teams consist of a handler, who is a certified peace officer/arson investigator, and a canine that has been certified and trained to detect hydrocarbons. The canines' keen sense of smell helps them identify areas for evidence collection at fire scenes for possible analysis by SFMO's Forensic Arson Laboratory. The arson lab, based in Austin, provides accelerant testing services and analysis of fire scene debris to law enforcement and public safety organizations as well as SFMO investigators. The lab is accredited by the American Society of Crime Laboratories Directors.

As of September 1, 2001, the SFMO investigates firefighter line-of-duty deaths (LODD) in Texas. These investigations are conducted in cooperation with fire-service organizations such as the State Firemen's and Fire Marshals' Association, Texas Fire Chiefs Association, Texas Association of Firefighters, Texas Fire Marshals Association, Texas Commission on Fire Protection (TCFP), Texas Forest Service, and Emergency Services Training Institute. SFMO prepares an annual report on LODD for the Commissioner of Insurance.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

In FY 2006, 650 investigations were completed, of which, 130 were referred for prosecution; both measures exceeding expectations of 507 and 110, respectively. Of the criminal investigations referred for prosecution, 74 percent resulted in enforcement or legal action.

To improve effectiveness, in 2003, SFMO established enhanced case management processes, which allow more focus on active investigations and better discernment of evidence. Additionally, the SFMO attributes the better average number of days to complete an investigation to its enhanced case management practices. Furthermore, the SFMO's arson lab has successfully accommodated an increased workload using existing resources. The past five years performance measures are provided below.

4.1.1 efficiency 2 Average time to complete fire investigations					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	363	177	148	123	129
Annual Target	325	325	295	295	180
Percentage of Target	111.79%	54.55%	50.16%	41.69%	71.67%
Analysis/Variance Explanation	Lower than the target is desirable for this measure. SFMO attributes its success to enhanced case management procedures.				

4.1.1 output 3 Number of samples analyzed in the arson lab					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	2,303	2,568	3,315	3,273	3,383
Annual Target	2,000	2,000	2,300	2,300	2,300
Percentage of Target	115.15%	128.40%	144.13%	143.20%	147.09%
Analysis/Variance Explanation	In 2004, City of Houston requested SFMO arson lab services, which significantly increased the number of samples analyzed. In 2005, forensic laboratories were required to be accredited, which resulted in a higher number of requests for the SFMO lab because some private laboratories did not have accreditation.				

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The SFMO General Management's Section VII.D response provides program history.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The SFMO Investigations division works with local prosecutors, law enforcement and fire service personnel, who are all affected by the fire investigations conducted.

No licenses or permits are issued by this division.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

According to the February 2007 organizational chart, one program director oversees 26 employees, 22 of which are stationed in the field, 3 in the arson lab, and 1 administrative support staff in Austin.

The Director of Investigations receives information from the Arson Hotline and routes it to SFMO investigators or the appropriate local agency.

While the Arson Investigation Services Division provides assistance to any community faced with a fire-related incident, given the tens of thousands of fires each year, demand for resources dictates the need for a systematic means of assigning resources in the most effective manner. SFMO uses an investigation protocol to allocate resources. At the top of the protocol are fires that are catastrophic in nature, which are fires resulting in death, significant property damage, or posing a serious threat to public health and safety. The protocol also identifies fires believed to be the work of a serial arsonist, related to hate crime, or where the operation of a vital public institution is compromised.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and worker's compensation industries.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

Some local law enforcement officials can conduct fire investigations. Certified investigators are generally only available in larger Texas communities.

SFMO investigates LODD in cooperation with many other entities, including TCFP. TCFP develops and enforces professional standards for the fire service industry. Accordingly, TCFP provides technical expertise regarding firefighter equipment and standards to support TDI's investigation.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Investigations are conducted upon request from local officials, frequently in communities that do not have these resources locally. On occasion, communities that have investigation resources request SFMO personnel to augment their own capabilities. Communities also request services such as canines or the arson lab if they are not available in their own jurisdictions.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Investigators work with local, state, and federal prosecutors, law enforcement and fire service officials. Additionally, the Investigations Division collaborates with federal agencies such as the FBI and the Bureau of Alcohol, Tobacco, and Firearms. Additionally, SFMO provides arson lab services for local governments that do not have access to accredited forensic laboratories.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	State Fire Marshal's Office, Fire Industry Licensing Services and Investigations
Location/Division	William P. Hobby Building, Tower I, 12th Floor
Contact Name	Mark Redlitz, P.E., Assistant State Fire Marshal and Division Director
Actual Expenditures, FY 2006	\$517,068.81
Number of FTEs as of August 31, 2006	14

B. What is the objective of this program or function? Describe the major activities performed under this program.

SFMO issues registrations, licenses and permits to individuals and companies working in the fire alarm, extinguisher, sprinkler, and fireworks industries.

SFMO, upon complaint, conducts investigations of fire alarm, extinguisher and sprinkler systems to ensure compliance with state law, thereby providing systems that extinguish fires, saving lives, property, and reducing insurance losses. This section also inspects fireworks retail sites to ensure compliance with adopted safety standards.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

In FY 2006, the SFMO Licensing Division issued 11,787 registrations, licenses and permits to fire alarm, fire extinguisher, fire sprinkler, and fireworks firms, individuals and other regulated entities, which surpassed the target number of 11,250. One hundred percent of registrations, licenses, and permits were issued within 20 days from the receipt of a completed application. Additionally, 1,197 licensing investigations or inspections were conducted, exceeding the target of 1,100.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The SFMO General Management's Section VII.D response provides program history.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Although SFMO activities ultimately affect the general public, the program's fire safety and prevention activities directly target the fire service and fire safety industries.

The SFMO Licensing Division affects persons engaged in the business of planning, installation and servicing of fire sprinkler systems, fire extinguishers and fire alarm systems and persons engaged in the wholesale and retail fireworks industries and those conducting public fireworks displays. A checklist of the applicant qualifications and eligibility requirements is available for review.

For FY 2006, the Licensing Division affected a total of 15,694 regulated entities, of which 10,483 were licensed fire alarm, extinguisher, sprinkler and fireworks companies and individuals, and 5,211 were fireworks permit holders. The breakdown is shown below.

2,290 companies
8,193 individuals
589 fireworks display permit holders
4,622 fireworks retail permit holders.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

One program director, who is a licensed engineer, oversees 10 employees. Six employees support licensing administration and four staff support licensing investigations. The four investigators are deployed in the field and serve the entire state. This information is based on the February 2007 organizational chart.

The SFMO staff engineer develops technical licensing tests and provides the materials to SFMO's vendor to administer. Licensing applicants are required to independently contact, pay fees to, and schedule tests with the contracted testing vendor. Upon successful completion of the test, the applicant submits official test results with the application and all licensing fees to SFMO.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and worker's compensation industries.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

Other TDI programs perform licensing, certification, and registration functions. Like other TDI programs, the SFMO registers and licenses individuals and entities pursuant to the Texas Insurance Code; however, the criteria for the SFMO's licensing process are substantively different. Additionally, individuals and entities licensed by SFMO are part of the construction industry and must pass licensing tests on technical building and fire codes as well as installation trade standards. Furthermore, each licensed individual cannot hold or maintain a license unless employed by a registered firm. Although the process for licensing may be similar, the criteria and areas of expertise are substantively different.

TDI's Consumer Protection Program resolves insurance complaints for consumers. In contrast to insurance complaints, few complaints pertaining to SFMO licensed entities are originated by consumers because the products (fire alarm, sprinkler and extinguishing systems) are too technical for consumers to understand. Complaints stem from local fire marshals, industry competitors and others generally responsible for public safety.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

SFMO's licensing and complaint processes are substantially different from those of other TDI programs, duplication is unlikely.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Licensing investigators work with local and regional fire code enforcement personnel, prosecutors and law enforcement when required.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

SFMO contracts with a third party to administer licensing testing. However there are no expenditures or transfers of state revenue either to or from the outsourced entity, since applicants pay testing fees directly to the vendor. The contract is issued every three years. An RFP is generated and evaluated to solicit competition based on the test cost to the applicant, security issues, and availability of test times and locations. The process was initiated in FY 2006 and has been well received by licensing applicants.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- **why the regulation is needed;**
 - **the scope of, and procedures for, inspections or audits of regulated entities;**
 - **follow-up activities conducted when non-compliance is identified;**
 - **sanctions available to the agency to ensure compliance; and**
 - **procedures for handling consumer/public complaints against regulated entities.**

The Licensing Division issues registrations, licenses and permits to individuals and companies working in the fire alarm, extinguisher, sprinkler and fireworks industries. This division issues 35 different license types, as required by the enabling statutes and/or detailed by administrative rules proposed by the regulated industry through advisory councils. The Licensing Division conducts investigations of existing fire alarm, extinguisher and sprinkler systems and fireworks stands to ensure compliance with adopted safety standards. Sanctions include license revocations, fines and/or criminal prosecution.

Why the regulation is needed

The regulated industries provide products and services in the health and safety field. These products and services are used under emergency situations and must perform the first time and every time they are needed. The regulations provide checks to ensure firms are legitimate; individuals demonstrate a minimum level of expertise by successfully completing the licensing application process; and fire safety and prevention systems meet minimum nationally accepted standards. Fireworks are regulated to minimize fire hazards.

The scope of, and procedures for, inspections or audits of regulated entities

All firms and individuals are audited to ensure compliance with administrative licensing laws upon initial issuance of a license or registration and at each renewal period. All field inspections or audits are handled under the complaint process.

Follow-up activities conducted when non-compliance is identified

The regulated entity or person may immediately correct a violation. When the violation consists of reasonable human error or misjudgment, the division encourages immediate corrections to the fire protection equipment, and the accused may voluntarily take immediate corrective action.

Sanctions available to the agency to ensure compliance

For major violations or where the accused has not performed with “due diligence” in the prosecution of their work, the case will be forwarded to the Enforcement Program of TDI. Licenses or registrations can

be revoked or a settlement may be negotiated assessing administrative penalties up to \$10,000 per violation.

Procedures for handling consumer/public complaints against regulated entities

Written complaints can be submitted on agency complaint forms by e-mail, fax or mail. An investigation is initiated upon receipt of a complaint. Each complaint is given a number for tracking purposes and assigned to an investigator. The alleged violations are inspected on-site in 80 percent of the cases. A case report of the findings, action and recommended disposition is entered in a database by the investigator and reviewed by the director for completeness and accuracy. Based on the circumstances of the case and its resolution described in the case report, the investigation is closed as:

- Unfounded - No Violations Detected
- Unfounded - No Violations Detected - Fireworks
- Unfounded - Inconclusive Evidence
- Founded - Owner Advised
- Founded and Corrected
- Founded - Fireworks
- Founded - Referred to Enforcement.

Cases sent to Enforcement for administrative action are processed according to the Administrative Procedures Act resulting in loss of license or in lieu of revocation, a negotiated administrative penalty according to the Texas Government Code, Section 417.010. Additional legal actions may include the following: restitution, cease and desist letters, and consent orders.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.

Upon receipt of complaints, Licensing investigates or inspects regulated entities for compliance with fire safety and prevention requirements pertaining to fire alarms, sprinklers, and extinguishers. Additionally, Licensing performs inspections of retail fireworks sites. For FY 2006, the Licensing Division conducted 1,197 investigations/inspections.

The tables below illustrate the number of resolved complaints/inspections and the disposition of cases referred to Enforcement in FY 2006.

FY 2006 Resolution of Complaints/Inspections			
Unfounded		Founded	
No Violations Detected	72	Owner Advised	11
Inconclusive Evidence	12	Corrected	33
No Violations - Fireworks	350	Fireworks	682
		Referred to Legal	30
Total	434	Total	756

FY 2006 Disposition of Cases Referred to Enforcement	
Restitution	\$31,656
Administrative Penalties	\$56,750
Cease & Desist Letters	13
Consent Orders	41
License Revocations	5

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	State Fire Marshal's Office, Fire Prevention and Outreach
Location/Division	William P. Hobby Building, Tower I, 12th Floor
Contact Name	Ross Coleman, Assistant State Fire Marshal and Prevention and Outreach Division Director
Actual Expenditures, FY 2006	\$357,533.08
Number of FTEs as of August 31, 2006	9

B. What is the objective of this program or function? Describe the major activities performed under this program.

The SMFO's Fire Prevention and Outreach Division administers the Texas Fire Incident Reporting System (TEXFIRS), a program used to collect statewide fire data to determine the major causes of fires, the losses that result from fires, and fire deaths and injuries. It is the only source of information to the public about fire problems in the state and many different businesses, government and service organizations use TEXFIRS data.

The Outreach Division also administers a variety of prevention programs and services, many of which are tailored for juveniles and their families, including:

- assisting fire departments in establishing their own community-based fire setter intervention programs for juveniles
- developing a fire and burn prevention K-12 curriculum guide "Fire Safety for Texans"
- administering the Fire Safety House program to deliver home fire escape training to Texas school children.

Public Protection Classification (PPC) oversight is a method by which SFMO administers the Insurance Services Office (ISO) classification system to reflect a community's local fire protection for property insurance rating purposes.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Outreach Division offers fire prevention training to TDI and DWC employees. Additionally, the division designed a lesson plan and presented a "train the trainer" class to the State Office of Risk Management, whereby, SORM will deliver the Have an Exit Strategy program to all state employees beginning FY 2008.

SFMO trains the Texas Alcoholic Beverage Commission's (TABC) beverage agents, auditors, inspectors, and general staff on the Have an Exit Strategy Program and how to identify and report fire safety

violations to the SFMO. TABC enforcement guidelines now address the protocol for making safety violation referrals to the SFMO.

In response to the death of two state employees located in a state leased building in Houston, DWC requested that the SFMO provide Have an Exit Strategy training to all DWC employees. All DWC occupancies were inspected by the SFMO and the Have an Exit Strategy presentations were then tailored to address the employees in each building.

The SFMO's Have an Exit Strategy has gained recognition from the National Fire Protection Association. An article detailing the program was posted in their national publication.

The State Fire Marshal is an advocate of the Courage to Be Safe Program, sponsored by the National Fallen Firefighters Foundation. This program advocates "Everyone Goes Home" from the scenes of fire and medical emergencies.

Recent outreach efforts that support the program's overall mission of fire prevention include the following.

- In 2006, Governor Rick Perry officially proclaimed Oct. 8-14 as Fire Prevention Week. In the weeks leading up to Fire Prevention Week, more than 53 cities, schools, universities, and fire departments contacted the SFMO to request Have an Exit Strategy materials to use in their own communities. The SFMO provided more than 18,024 educational items to these partnering organizations.
- The Outreach Division works closely with the Texas Fire Marshal's Association, a non-profit organization, to plan an annual conference for Texas fire industry professionals. Now in its ninth year, the Annual Fire Marshal's Conference provides insight into critical issues affecting fire safety. In addition to thought-provoking sessions, the conference provides attendees with opportunities to meet, mingle, and share expertise with their colleagues. The Outreach Division is responsible for the following duties: selecting speakers and topics, booking speakers, designing the schedule, and publicizing the event.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The SFMO General Management's Section VII.D response provides program history.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

All SFMO programs ultimately affect the general public. Fire safety and prevention programs may be targeted directly at the public, through education and outreach activities. The Outreach Division primarily affects public and private educators, the Texas fire service industry, and the general public.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

One program director oversees seven Austin-based employees and one field employee. In Austin, three employees support the Texas Fire Incident Reporting System (TEXFIRS), one employee supports the ISO function, and three employees support the division's outreach initiatives. The field employee administers the Fire Safety House.

According to Texas Government Code, Section 417.0052, the State Fire Marshal, under the direction of the Commissioner of Insurance is responsible for maintaining and administering TEXFIRS. The program is used as a tool to assess the causes of fires in Texas and to plan and direct the State Fire Marshal's Office's prevention programs as well as fire protection activities at the local and national levels.

SFMO's PPC Oversight Representative supports the ISO function by reviewing each proposed new classification rating. This review may take no longer than 30 days, including 10 days for local officials to comment. If the new rating appears reasonable, TDI authorizes ISO to publish it for use by insurance companies.

To schedule the Fire Safety House community appearances, the SFMO has divided Texas into nine regions. During the school year, the fire safety house visits each of the nine regions for a two-week period.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and worker's compensation industries.

Additionally, the SFMO received federal grant funds during FY 2004 and FY 2005 to procure a new fire safety house and fire safety educational materials to launch the SFMO Fire Safety House program.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

SFMO's Outreach Division focuses its activities on fire prevention and safety education in Texas. Other TDI programs provide education and outreach services.

TDI's Consumer Protection (CP) program develops and provides Texas consumers with insurance information, coordinates the agency's Speakers Bureau, and distributes publications at outreach events.

TDI's PIO section also provides information to the public, although its focus is primarily on the media, rather than to consumers and the general public.

TDI's Division of Workers' Compensation conducts outreach for employers regarding workplace health and safety and return to work.

Various municipal-level outreach programs are available in some communities.

The Texas Commission on Fire Protection (TCFP) assists local governments and other entities by providing materials for use in conducting research on fire protection issues and in developing training resources for fire protection personnel and to assist in providing fire fighting equipment and other resources to local fire departments.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Because SFMO's outreach efforts focus primarily on fire safety and prevention, duplication of services is unlikely with other TDI programs.

The Juvenile Fire Setter Intervention Program and TEXFIRS are coordinated at the state level. Their role is to assist local jurisdictions in providing services.

PPC oversight assists fire departments and communities in obtaining local fire protection for property insurance rating purposes.

The SFMO Fire Safety House provides services to communities who do not have their own program.

TCFP provides fire protection research and educational materials for training programs to fire departments with a focus on professional standards for fire fighters. The SFMO and TCFP education activities do not duplicate one another.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Outreach staff work with local educational and fire service representatives. Upon request, the Outreach Division conducts presentations and provides educational information to regional or federal agencies, such as the Lower Colorado River Authority and National Association of State Fire Marshals.

The division coordinates with a variety of entities to share TEXFIRS information.

City and fire departments use TEXFIRS data to analyze the demand for resources, determine leading causes of fires, develop prevention programs and plan department activities accordingly.

Information from the TEXFIRS system is also used to create various public awareness programs and news releases. The information is used by law enforcement organizations to combat arson.

The Consumer Products Safety Commission uses the data to identify hazardous products, which the commission then makes available to the public through statewide news releases and national fire and insurance publications.

The National Fire Protection Association uses the data to track the need for changes in the National Fire Code. They also use TEXFIRS data to monitor the need for improvements in firefighter training and protective clothing standards.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Not applicable.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VIII. Statutory Authority and Recent Legislation

A. Fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2003 - 2007, or earlier significant Attorney General opinions, that affect your agency's operations.

Texas Department of Insurance Exhibit 13: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency
Texas Insurance Code, Articles 1.10; 1.11; 1.15; 1.17; 1.17A; 1.32; 3.07; 3.28; 10.07; 22.11; 22.23; 22.23-A; and §§ 822.210; 841.205	Actuarial support for on-site financial examinations, desk examinations and review of mandated actuarial opinions.
Texas Insurance Code, Articles 1.10 §5; 1.15 §§2-3; 3.95-13; 9.29; 14.33; 16.24; 17.25 §14; 18.18; 18.23; 20A.21; 21.28-A §§3, 5, 10; 22.22; 31.002; 32.003	Initiate regulatory interventions at financially troubled insurers to provide rehabilitative efforts.
Texas Insurance Code, Articles 1.10; 1.38; 2.03; 2.07 §§1, 4, 5, 7; 2.20; 3.02 a, c; 3.05; 3.10; 3.17; 3.23; 3.27-1; 3.54; 21.28-A §1; 21.49-1	Review transactions between insurers and their affiliates to ensure that mandated filings reflect fair and equitable transactions so that insurance policyholders are not financially disadvantaged or harmed.
Texas Insurance Code, Articles 1.11 (b); 1.15; 1.15(A); 1.32 §2; 3.06; 3.95-2; 8.11; 10.33; 14.15; 21.28-A §3; 20A.17; 21.49-1; 24.10(b); 32.003	Perform desk examinations of mandatory financial statements, CPA reports and other statutorily required financial filings to detect potentially troubled insurers, etc.
Texas Insurance Code, Articles 1.11 (b); 1.15; 1.32; §2, 24.10(b); 32.003	Early Warning System for detecting financially troubled entities.
Texas Insurance Code, Articles 1.14-2 §6A(e); 1.15; 1.17; 1.19; 2.04; 3.06; 3.10(3); 3.25; 3.27-3(a); 3.95-2(i); 3.95-9; 5.75-1(3); 5.76-3 §18(a); 8.10; 9.15; 9.21(a)(b); 9.22(b); 9.25, 10.33(a); 10.35; 11.02 §2; 11.07; 13.09(a); 14.16; 15.15; 16.19; 17.22(2); 18.11; 19.08; 20.21(a); 20A.17(c); 21.07-3 §3C(f); 21.07-7 §9(c); 21.12; 21.28-D §15; 21.43 §6; 21.49 §5B(a); 21.49-1 §9(a); 21.49-3 §10; 21.49-3c §18; 21.54 §4(i); 22.05, 23.21	Perform on-site statutory examinations to detect potentially troubled insurers.
Texas Insurance Code, Articles 1.15; 21.28-A §9; §38.001	Monitor companies recently released from financial rehabilitation to detect recidivism.
Texas Insurance Code, Article 5.15-3	Provides statutory authority to help reduce potential loss costs – recodified as chapter 1903, effective April 1, 2007.
Texas Insurance Code, Article 5.171	To review rate filings and make sure that rating territories of an insurer comply with this statute.
Texas Insurance Code, Article 5.43-1	Provides authority for regulation and licensing of fire extinguisher installation and sale.
Texas Insurance Code, Article 5.43-2	Provides authority for regulation and licensing of fire alarm installation and sale.

Texas Insurance Code, Article 5.43-3	Provides authority for regulation and licensing of fire sprinkler systems installation and sale.
Texas Insurance Code, Articles 9.48; 21.28C; 21.28D and Chapter 21A	Monitor guaranty associations that pay policyholder claims of insolvent insurers (allocated funding).
Texas Insurance Code, Article 21.28, and §§843.156; 1305.054; 1305.155(d)	Conduct examinations to assess quality, accessibility, and availability of care provided by HMOs and workers' compensation networks. Conduct targeted on-site examinations of IROs and URAs in response to complaints.
Texas Insurance Code, Articles 21.28-A §6; 32.023	Monitor troubled insurance entities subject to financial rehabilitation in other states.
Texas Insurance Code, Articles 21.28-A §6; 9.48; 21.28; 21.28C; 21.28D; 32.023; and §§843.156, 1305.054, 1305.155(d)	Conduct annual and triennial examinations.
Texas Insurance Code, Article 21.58A §3	Certify utilization review agents.
Texas Insurance Code, Articles 21.58A §9; 21.58C §2(a)(4) and §§ 843.282, 1305.002, 1305.403(d)	Investigate and resolve complaints against HMOs, workers' compensation networks, IROs and URAs and, when necessary, initiate enforcement actions.
Texas Insurance Code, Article 21.58A §14 and §§1272.057, 1305.052	Investigate and examine delegated entities for HMOs and workers' compensation networks as needed. Register insurers and HMOs to conduct utilization reviews.
Texas Insurance Code, Article 21.58C §2	Certify independent review organizations.
Texas Insurance Code, Chapter 21A	Oversee/contract with qualified Special Deputy Receivers that liquidate insolvent insurers (allocated funding).
Texas Insurance Code, §31.002	Contains general statement of authority for TDI – regulate business of insurance in this state.
Texas Insurance Code, Chapter 36	Contains agency's subpoena power.
Texas Insurance Code, §38.001	Authority to make inquiries of holders of authorizations.
Texas Insurance Code, §38.201	Authorizes Commissioner to contract with outside entity to act as statistical agent in collection of experience required by statistical plans.
Texas Insurance Code, Chapter 81	Contains statute of limitations for agency administrative actions.
Texas Insurance Code, Chapter 82	Sets forth standards for sanctions generally.
Texas Insurance Code, Chapter 83	Sets forth standards for emergency cease and desist orders.
Texas Insurance Code, Chapter 84	Sets forth standards for penalties.
Texas Insurance Code, Chapter 101	Prohibits unauthorized insurance.
Texas Insurance Code, §521.002	Establishes a program to facilitate resolution of policyholder complaints.
Texas Insurance Code, Chapter 541	Prohibits unfair methods of competition or deceptive acts.
Texas Insurance Code, Chapter 544	Prohibits discrimination in business of insurance.
Texas Insurance Code, Chapter 704	Fraud Unit responsible for keeping entity antifraud plans.
Texas Insurance Code, §§701.051, 701.102, 701.104	Commissioner may conduct any investigation necessary inside/outside state to determine whether act or offense occurred or aid in enforcing laws relating to

	fraudulent insurance acts or insurance fraud. Commissioner may employ investigators as necessary to enforce statute. Fraud Unit responsible for accepting suspected insurance fraud reports.
Texas Insurance Code, §§843.078, 843.080, 843.105, 843.155, 1271.101-104, 1271.251, 1272.052, 1305.053	Screen, review and image HMO form filings, requests for certificates of authority, requests for service area modification, workers' compensation network forms, and contracts.
Texas Insurance Code, Chapter 854	Prohibits unfair claim settlement practices.
Texas Insurance Code, Chapter 1111	Specific authority for registration and forms used in connection with viatical and life settlements.
Texas Insurance Code, Chapter 1153	Specific authority for credit life and credit accident and health.
Texas Insurance Code, §1305.052	Conduct examinations of HMOs and workers' compensation networks prior to TDI issuing certificates of authority and certification of workers' compensation networks. Certify workers' compensation networks.
Texas Insurance Code, §1305.501	Restates biennial report requirements on impact of workers' compensation networks on cost and quality of medical care under §405.0025, Texas Labor Code.
Texas Insurance Code, §1305.502	Requires Workers' Compensation Research and Evaluation Group to publish an annual consumer report card which compares each workers' compensation network certified by TDI and outcomes of network and non-network claims on elements such as: employee satisfaction with medical care, access to medical care, return-to-work outcomes, health-related outcomes, medical costs and utilization of care.
Texas Insurance Code, Chapter 1501	Specific authority pertaining to small employer plans.
Texas Insurance Code, Chapter 1651	Specific authority pertaining to long-term care.
Texas Insurance Code, Chapter 1652	Specific authority pertaining to Medicare supplement.
Texas Insurance Code, Chapter 1701	Authority to review policy, contract, certificate, rider, applications, or endorsement pertaining to accident or health insurance, medical or surgical insurance, life or term insurance, endowment insurance; industrial life insurance; or fraternal benefit insurance; annuity or pure endowment contract.
Texas Insurance Code, §§2052.002, 2052.003	Allows insurers to file for prior approval, use of non-standard workers' compensation endorsements and/or forms.
Texas Insurance Code, Chapters 2651, 2652	Licensing of title agents, escrow officers, and direct operations, continuing education.
Texas Insurance Code, Chapter 2703	Ratemaking and promulgation of forms and rules.
Texas Business and Commerce Code, §44.102(d)	Grants a state agency that issues a license authority to investigate complaints concerning violations of Texas No-Call List provisions and to assess administrative penalties, including restitution of any monetary damages of complainant. If agency determines that a licensee willfully or knowingly violated Texas No-Call list provisions, agency may suspend or revoke licensee's license.

Texas Business Corporations Act -§ 8.01	Non-resident corporations must get a certificate of authority from Texas Secretary of State and comply with Comptroller's Tax Code requirements for out-of-state corporations. Enforcement has encountered some situations where non-resident corporation complied with these two provisions but did not obtain a license to engage in business of insurance.
Texas Code of Criminal Procedure, Article 2.12 (28)	Establishes that an investigator commissioned by Commissioner of Insurance is a Peace Officer.
Texas Code of Criminal Procedure, Article 55.01	Sets forth circumstances which entitle a person to expunction. In Title 28, Texas Administrative Code, §1.502(h)(2), in licensing decisions, Enforcement and the Licensing Division consider extent and nature of a person's past criminal activity. When expunction is granted, TDI loses information related to this factor. Additionally, when TDI receives an Order of Expunction, numerous areas of TDI must redact and/or destroy records mentioning the arrest and/or criminal charges.
Texas Education Code, §57.491	TDI shall not renew a license of a license holder if the subject's name appears on a list of persons in default on education loans. In practice, TDI is not receiving a list of persons in default on loans.
Texas Family Code, §58.203	Authorizes Texas Department of Public Safety to certify to juvenile probation department that records relating to a person's juvenile case are subject to automatic restriction if person is at least 21 years old and person has not committed any criminal offense after becoming 17 years of age. Once certification of records occurs, subject of records is not required to state in an application for employment or licensing that person has been a criminal respondent. Once this occurs, TDI will not have access to records that may be pertinent to its licensing decisions.
Texas Family Code, §§232.008 - 232.009	Many licenses, including hunting licenses, may be suspended by a court for non-payment of child support. During 2001 Legislative session, legislation was passed that allows a court to issue an order suspending an agent's insurance license(s) for failure to pay child support.
Texas Finance Code, Chapter 154	Prepaid Funeral Services – regulates prepaid funeral benefits in conjunction with Insurance Code provisions.
Texas Government Code, §411.081	Allows an individual to petition court for an order of nondisclosure prohibiting the Texas Department of Public Safety from disclosing criminal history record information. TDI is not among the agencies and entities listed in statute which are still entitled to the criminal history record.
Texas Government Code, §§ 411.081, 411.082, 411.083, 411.084, 411.085, 411.087, 411.106	Govern TDI's access to, use of, release of and liability for release of DPS criminal history reports.
Texas Government Code, §§411.081(g-2), 552.142(b)	Provides that a person whose criminal history record has been sealed by a nondisclosure order is not required to state in a license application that person has

	been subject of any criminal proceeding. Often, acts/conduct that led to the criminal charge could be considered as fraudulent or dishonest, and consequently grounds for denial and/or disciplinary action, yet TDI is not made aware of conduct through license application screening questions.
Texas Government Code, Chapter 417	Authorizes State Fire Marshal to perform building inspections statewide and inspections of state owned buildings, conduct arson investigations, provide fire prevention/safety education, maintain/administer Texas Fire Incident Reporting System, conduct investigations of firefighter fatalities, and perform duties related to Fire Suppression Ratings Schedule.
Texas Government Code, §552.002 Texas Insurance Code, Articles 21.21§4(1)-(3),(11); 20A.14(a)(1),(2); 3.70-12, §3(a); 3.50-6A, §2(c)(4); 24.13; and §§32.001, 843.204	Process service requests for information and respond to open records requests.
Texas Government Code, Chapter 2003	Authority of State Office of Administrative Hearings.
Texas Health and Safety Code, Chapter 753	Authority for inspection of above ground storage tanks for flammable liquids.
Texas Health and Safety Code, §756.083	Authority for State Fire Marshal to adopt rules regulating sale and distribution of security bars.
Texas Health and Safety Code, Chapter 791	Authority for State Fire Marshal to supervise and enforce fire escape requirements.
Texas Health and Safety Code, Chapter 792	Authority for State Fire Marshal to determine which smoke detectors are acceptable for use in hotels.
Texas Labor Code, Chapter 91	Authority to regulate staff leasing companies that have sponsored a number of unauthorized health plans TDI has taken action against.
Texas Labor Code, §405.001	Creates Workers' Compensation Research and Evaluation Group.
Texas Labor Code, §405.002	Workers' Compensation Research and Evaluation Group is located in TDI. Serves as a resource to Commissioner of Insurance on workers' compensation issues. Gives TDI authority to apply for and spend grant funds. Clarifies research reports are accessible to public via TDI website.
Texas Labor Code, §405.003	Authority to fund Workers' Compensation Research and Evaluation Group through maintenance tax collected on workers' compensation insurance carriers and self-insurance groups, excepting governmental entities.

Texas Labor Code, §405.004	Clarifies Workers' Compensation Research and Evaluation Group (REG) access to files and records of TDI's Division of Workers' Compensation, Texas Workforce Commission, Department of Assistive and Rehabilitative Services, Office of Injured Employee Counsel, State Office of Risk Management, and other appropriate state agencies. Provides surveys are not subject to public disclosure and protects confidentiality of REG working papers. Allows adoption of rules as necessary to establish data reporting requirements.
Texas Labor Code, §405.0025	Authority for Workers' Compensation Research and Evaluation Group's (REG) to conduct professional studies and research on variety of workers' compensation issues. Requires REG to issue a biennial report to governor, lieutenant governor, speaker of the house of representatives, and members of legislature on impact of workers' compensation health care networks.
Texas Labor Code, §405.0026	Requires Commissioner of Insurance to adopt an annual research agenda for Workers' Compensation Research and Evaluation Group, incorporating comments from public.
Texas Labor Code, §406A	Requires TDI to approve groups for purpose of purchasing workers' compensation insurance.
Texas Labor Code, §413.031(d) Texas Insurance Code, §1305.355(d)	Assign independent review requests to independent review organizations and perform data entry of assignments. Note: only a rule cite for health, but no statutory cite.
Texas Labor Code, Chapter 415	Provides for regulation of workers' compensation insurance. Sets forth enforcement function.
Texas Occupations Code, Chapter 2154	Provides authority for regulation and licensing of fireworks distribution and sale.
Texas Occupations Code, Chapter 1704	Regulates bail bond sureties. Creates a Bail Bond Board in each county with a population of 110,000 or more and grants Board authority to revoke or suspend license issued by Board. TDI does not regulate these license holders.
Texas Occupations Code, Chapter 2151	Regulates amusement ride insurance.
Texas Occupations Code, Chapter 2154	Regulates insurance in connection with fireworks and fireworks displays.
Texas Occupations Code, §§ 53.001-53.052	Set forth guidelines and standards regarding consequences of a criminal conviction. Requires TDI to issue guidelines stating how particular crimes are considered to relate to business of insurance and criteria that affect TDI's licensing decisions (Title 28, Texas Administrative Code, §§1.501-1.502).
Texas Occupations Code, Chapter 953	Places regulation of pre-paid legal services companies under Texas Department of Licensing and Regulation.
Texas Penal Code	Enforcement and Licensing Division look to the elements of criminal offenses in the Penal Code as part of the licensing decision analysis. Nature of the crime will also affect applicability of 18 U.S.C.A. §1033.
Texas Penal Code, §42.12	Distinguishes "regular" community supervision from

	“deferred adjudication” community supervision. Often court records are not clear whether subject has been convicted.
Texas Transportation Code, §548.603	Regulates fictitious or counterfeit inspection certificate or insurance documents.
Texas Transportation Code, Chapter 601	Motor Vehicle Safety Responsibility Act - TDI adopted rules pertaining to financial responsibility verification program under Texas Insurance Code, Chapter 601.
Texas Transportation Code, Chapter 722	Exempts automobile club services from regulation.
Federal McCarran-Ferguson Act 15 U.S.C. Chapter 20	Provides basic principal that business of insurance is to be regulated by states.
Federal Anti-Crime Omnibus Act 18 U.S.C. §1033(e)(1)(A)	Prohibits persons convicted of certain felonies from willfully engaging in business of insurance or participating in such business when activities affect interstate commerce. However, 18 U.S.C. § 1033(e)(2) allows TDI to grant a written consent to engage in business of insurance or participate in such business as that term is defined in Act.
Federal ERISA Act 29 U.S.C. 1001 et seq.	Provides that employee welfare benefit plans are not regulated by states, unless they are a multiple employer welfare arrangement.
Federal Public Law 92-544 and 28 CFR 50.12	Require TDI to notify applicants and authorization holders that fingerprints submitted to TDI may be submitted to FBI. CFR 50.12 also prohibits dissemination of records received from FBI.
Federal Bankruptcy Laws	While TDI’s disciplinary actions are not stayed by a bankruptcy filing, the bankruptcy may impact TDI’s ability to require restitution and/or impose an administrative penalty.
Federal Welfare Reform Act of 1996	TDI only licenses persons within US as agents. Essentially, every US citizen is authorized to work in US. A foreign national within US is an immigrant. Immigrants must meet requirements of Welfare Reform Act of 1996, including having authorization to work within US.
National Flood Insurance Program (NFIP)	Administered by Federal Insurance Administration (FIA), which is supervised by Federal Emergency Management Administration. Agents who want to sell flood insurance must apply through NFIP; insurers wishing to write flood insurance contract with FIA.
United States Code (USC), Title 7, Chapter 36	Federal Crop Insurance Corporation (FCIC) was created pursuant to USC Title 7, Chapter 36. 7 USC §1502(b)(2), adopted October 13, 1994, shifted provision of crop insurance from FCIC to approved private insurers. Currently, to extent crop insurance coverage is available through approved private insurance providers in the state, only approved insurance providers may provide coverage. Even during time FCIC directly provided crop insurance, FCIC encouraged sale of federal crop insurance through licensed private agents. Now FCIC makes available a listing of insurance agents and companies offering to sell crop insurance in area of producers.

Texas Department of Insurance Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
Texas Attorney General No. GA-0505	An agency may not reopen an order that is administratively final except as authorized by statute. The APA sets forth time periods in which an order is appealable and becomes final. This OAG opinion seems to support TDI's position that after time periods in APA have passed, subject of order cannot file motions for rehearing and/or to set aside.
Texas Attorney General No. GA-0396	A Court does not have personal jurisdiction over a criminal defendant once it dismisses proceeding and discharges defendant from deferred adjudication probation and cannot pursue collection of past due fines and court costs once deferred adjudication probation has expired. This opinion potentially impairs TDI's ability to rely upon Texas Occupations Code, §53.023(c)(4) and Title 28, Texas Administrative Code, §1.502(h)(G)(iv) which allow TDI to consider noncompliance with probation terms as a factor that weighs against licensure.
Texas Attorney General No. GA-0288	In non bail bond board counties, sheriff does not have to accept a bail bond signed by an individual surety's attorney-in-fact. According to Texas Attorney General No. MW-321 (April 14, 1981), in counties without a bail bond board, person making a bond must hold a license issued by TDI. Potentially, surety's employees are engaging in unauthorized insurance.
Texas Attorney General No. GA-0255	Under Texas Government Code, §411.081, nondisclosure orders prohibit TDI from obtaining criminal history information from Texas Department of Public Safety.
Texas Attorney General No. GA-0165	An agent of a corporate surety licensed as such by a bail bond board does not require an independent license to act as an agent of corporation.
Texas Attorney General No. GA-0064	Clarifies that a license holder's license is revoked by operation of law upon imprisonment for a felony conviction pursuant to Texas Occupations Code, §53.021(b).
Texas Attorney General No. GA-0016	On the basis of the U.S. Supreme Court's decision in American Insurance Association v. Garamendi, 123 S.Ct. 2374 (2003), article 21.74 of the Texas Insurance Code interferes with the President's conduct of foreign affairs and is thus preempted by the U.S. Constitution.
Texas Attorney General No. GA-0495	Texas Insurance Code, Section 38.003(d) does not prohibit TDI from disclosing the identities of companies writing commercial property insurance along the Texas coast.
Texas Attorney General No. GA-0040	The Health Maintenance Organization Act, Texas Insurance Code, Ann. Ch. 20A (Vernon 1981 & Supp. 2003), does not prohibit a physician who is not under contract with an HMO from billing an HMO enrollee

	for charges not paid by the HMO. TDI is not authorized to enforce the Act to prohibit such a physician from balance billing an enrollee of the HMO.
Texas Attorney General No. GA-0045	The refusal of Farmers Insurance Exchange and Fire Insurance Exchange to renew the policies of Texas homeowners would not violate state law, provided that the exchanges follow the notice procedure set forth in Texas Insurance Code, Article 21.49-2B, Section 5. The exchanges would not be required to file a plan for withdrawal from the Texas homeowners' insurance market, as they are reciprocal exchange insurers that are not regulated by Texas Insurance Code, Article 21.49-2C. Nor are reciprocal exchange insurers subject to a moratorium issued by the Commissioner of Insurance.
Texas Attorney General No. JC-0528	Clarifies that Texas Occupations Code, Chapter 1704 regulates bail bond sureties. This statute creates a Bail Bond Board in each county with a population of 110,000 or more and grants Board authority to revoke or suspend a license issued by Board.
Texas Attorney General No. JC-0205	Clarifies when a junior college district can and cannot use a designated broker of record to purchase insurance.
Texas Attorney General No. JC-0051	If this opinion is applicable to all licensing entities, TDI must verify immigration status of Canadian and Mexican nationals who are physically present in this country seeking licensure in Texas to determine their eligibility for a professional license in accordance with Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended. TDI may not deny licensure to Canadian or Mexican nationals solely because they are not citizens or permanent residents of United States.
Texas Attorney General No. JC-0502	Under the prompt payment provisions requiring preferred provider organizations (PPOs) and health maintenance organizations (HMOs) to disclose to physicians and other health care providers "copies of all applicable utilization review policies and claim processing policies or procedures, including required data elements and claim formats," Texas Insurance Code, Ann. Art. 3.70-3C, § 3A(i); id. Art. 20A.18B(i) (Vernon Supp. 2002), TDI is authorized to promulgate rules to require PPOs and HMOs to disclose their fee schedules and bundling and downcoding policies.
Texas Attorney General No. MW-321	In counties without a bail bond board, person making a bond must hold a license issued by TDI.

B. Provide a summary of recent legislation regarding your agency by filling in the chart below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation).

Texas Department of Insurance Exhibit 14: 80th Legislative Session Chart		
Legislation Enacted - 80th Legislative Session		
Bill Number	Author	Summary of Key Provisions
HB 34	Solomons	<p>Relating to the prohibition of certain payments or other inducements regarding a workers' compensation claim.</p> <p>This bill adds new §415.0036 to the Labor Code that imposes an administrative violation on an insurance adjuster, case manager, or other person who has authority under the Texas Workers' Compensation Act to request performance of a service affecting the delivery of benefits to an injured employee or who actually performs such a service, including peer reviews, required medical examinations or case management, if the insurance adjuster, case manager, or other authorized person offers to pay, pays, solicits, or receives an improper inducement relating to the delivery of benefits to an injured employee or improperly attempts to influence the delivery of benefits to an injured employee, including through the making of improper threats. The section applies to each of the named applicable persons who is a participant in the Texas workers' compensation system and to an agent of such a person. The bill provides that a violation of the new section is a Class A administrative violation.</p> <p>The law takes effect September 1, 2007 and applies only to the punishment for a violation occurring on or after this effective date.</p>
HB 472	Solomons	<p>Relating to the regulation of third-party administrators, including administrators with delegated duties in the Texas workers' compensation system.</p> <p>The law amends the definition of administrator to include persons collecting premiums or adjusting or settling claims for workers compensation benefits and expands the regulatory requirements for administrators. The amended definition also adds delegated entities and workers' compensation networks that administer claims for an insurer. The law adds an exemption for affiliates that are acting as administrator on behalf of a certified self insurer.</p> <p>An insurer using an administrator remains responsible for determining benefits, rates, reimbursement procedures and claims payment procedures and ensuring competent administration. If the administrator has more than 100 certificate holders, the insurer must conduct semiannual reviews of the operations and a biennial on-site audit.</p> <p>Administrators who receive \$10 million or more as compensation for performing administrative services must submit an annual report to the commissioner, which must include an audited financial statement.</p> <p>Administrators of workers compensation benefits must have a contract with the insurer and the administrator may also enter into a contract with an employer. The commissioner may: conduct market analysis and examinations of an administrator; adopt rules establishing financial standards, reporting requirements and required contract provisions; and prescribe provisions that must be included in the written agreement between the administrator and the plan sponsor or insurer.</p> <p>The law sets out grounds for disciplinary actions and the rights, responsibilities</p>

		<p>and procedures for pursuing disciplinary action against a certified administrator.</p> <p>The bill also amends the definition of adjuster to include an individual who investigates, adjusts, supervises the handling of, or settles workers' compensation claims. The definition includes claims through a workers' compensation network and claims on behalf of a certified self-insurer, a certified self-insurance group and a governmental entity that self-insures. The law takes effect September 1, 2007. A person is not required to hold a certificate of authority to administer workers' compensation benefits until January 1, 2008. the Texas Department of Insurance (TDI) must issue certificates of authority to applicants beginning September 1, 2007.</p>
HB 473	Solomons	<p>Relating to benefits provided under the workers' compensation system, including fee guidelines for medical benefits and payment of benefits under interlocutory orders.</p> <p>This bill amends the Labor Code to allow for deviation from fee guidelines by "informal or voluntary networks" which it also defines and further requires such "informal and voluntary networks" to be certified as workers' compensation health care networks under Texas Insurance Code, Chapter 1305 no later than January 1, 2011.</p> <p>In a provision effective January 1, 2011, the bill provides that carriers and certified networks may continue to contract with a health care provider to secure health care for an injured employee for fees that exceed the fees adopted by the division.</p> <p>The commissioner of insurance and the commissioner of workers' compensation may adopt rules as necessary to implement Labor Code, §413.011.</p> <p>The bill also amends the requirements concerning interlocutory orders for the payment of benefits to require the benefit review officer to give the opposing party an opportunity to respond before issuing the interlocutory order.</p> <p>The law takes effect September 1, 2007, except for the provision regarding all carriers and certified networks effective as of January 1, 2011.</p>
HB 522	Woolley	<p>Relating to adoption and operation of requirements regarding health benefit plan identification cards.</p> <p>This bill establishes an advisory committee and a pilot program regarding the electronic data exchange of health information and gives the commissioner appointment and rulemaking duties for implementation.</p> <p>The bill requires the commissioner to appoint a technical advisory committee on electronic data exchange to advise the commissioner on technical aspects of using the transaction standards and the rules of the Council for Affordable Quality Healthcare Committee on Operating Rules for Information Exchange. The advisory committee is to issue a final report to the commissioner by December 1, 2008.</p> <p>The bill also requires the commissioner to designate a county or counties for initial participation in an identification card pilot program to begin not later than May 1, 2008.</p> <p>The law takes effective immediately.</p>
HB 539	Smith, Wayne, Crabb, Callegari	<p>Relating to the regulation of fireworks and fireworks displays.</p> <p>The bill amends the Occupations Code and the Government Code. The bill adds certain pop rockets to the list of fireworks that are not permitted. The bill modifies the membership of the advisory council appointed to assist the Commissioner of Insurance regarding regulation of fireworks and fireworks displays to include a representative of a county fire marshal's office. The bill adds to the periods when fireworks may be sold to the public to include sales between May 1 and May 5 in certain counties near the Texas-Mexico border. It also raises the minimum age of a person to whom fireworks may be sold</p>

		<p>from 12 years of age to 16 years of age. It prohibits a person from employing or allowing a person younger than 16 years of age to manufacture, distribute, sell, or purchase fireworks, or employing a person younger than 18 years of age to sell fireworks at a retail sales location, with certain exceptions. It makes violations of provisions relating to selling, storing, manufacturing, distributing, or displaying fireworks and the above provisions relating to employment a Class C misdemeanor. It modifies the criteria by which the Texas Forest Service determines whether drought conditions exist in any county that has requested such a determination and requires the Texas Forest Service to make its services available each day during the Fourth of July and December fireworks seasons.</p> <p>The law takes effect immediately, except the provision relating to the banning of certain pop rockets takes effect January 2, 2008. The changes in law made by this Act apply only to an offense committed on or after the effective date of the applicable section.</p>
HB 716	Solomons, Anchia, Flynn, McCall, Orr	<p>Relating to mortgage fraud; providing criminal penalties.</p> <p>This bill sets up a mortgage fraud task force headed by the Office of the Attorney General, with participation from representatives of various agencies including the Department of Insurance.</p> <p>The bill also sets forth certain penalties and notice requirements relating to mortgage fraud.</p> <p>The law takes effect September 1, 2007.</p>
HB 724	Solomons	<p>Relating to workers' compensation claims for certain medical benefits, death benefits, and burial benefits.</p> <p>The bill amends the Labor Code to provide that a dissatisfied party to a medical fee or medical necessity dispute is entitled to an administrative review through a contested case hearing (CCH) under Texas Labor Code, §413.0311 if the review concerns a health care provider fee dispute where the reimbursement amount in dispute is under \$2,000.00, if the appeal is of an IRO decision regarding the retrospective medical necessity of a health care service for which the amount billed does not exceed \$3,000.00, or where the review concerns an IRO decision concerning the concurrent or prospective medical necessity for health care services. A benefit review conference is not a prerequisite to the CCH under this change. The CCH decision could then be appealed to district court under Texas Government Code, Chapter 2001, Subchapter G. If the appealed decision is not covered by Texas Labor Code, §413.0311 and is not related to spinal surgery, the dissatisfied party is entitled to a hearing at the State Office of Administrative Hearings (SOAH) not later than the 60th day after the party notifies the division of the request for the hearing. The hearing is to be conducted in the manner of contested cases under Chapter 2001, Texas Government Code. After exhausting all administrative remedies, the aggrieved party may seek judicial review under Texas Government Code, Chapter 2001, Subchapter G. In either review process, the Texas Department of Insurance and the Division of Workers' Compensation are not considered to be parties. The change in the law would apply to the resolution of a dispute that is pending with the Division on or after the effective date of the Act, that is remanded back to the Division on or after the effective date of the Act, or that arises on or after the date of the Act.</p> <p>The bill also provides for the payment of death benefits to surviving eligible parents (as defined) of the deceased. A payment of death benefits made under this subsection may not exceed one payment per household and may not exceed 104 weeks.</p> <p>The bill further provides reimbursement procedures for certain entities (subclaimants). For each medical benefit paid, the workers' compensation insurance carrier shall pay to the health care insurer the lesser of the amount payable under the applicable fee guideline as of the date of service or the actual</p>

		<p>amount paid by the health care insurer. In the absence of a fee guideline for a specific service paid, the amount per service paid by the health care insurer shall be considered in determining a fair and reasonable payment under rules under this subtitle defining fair and reasonable medical reimbursement. The health care insurer may not recover interest as a part of the subclaim.</p> <p>The commissioner of workers' compensation and the commissioner of insurance shall adopt rules as required by this Act not later than December 1, 2007.</p> <p>The law takes effect September 1, 2007.</p>
HB 886	Giddings	<p>Relating to an optional preauthorization plan for the workers' compensation return-to-work pilot program for small employers.</p> <p>This bill amends the Labor Code to require the commissioner of workers' compensation to establish an optional preauthorization plan for eligible employers who participate in the return-to-work pilot program for small employers, which is coordinated by the workers' compensation division of the Texas Department of Insurance. To participate in the preauthorization plan, an employer must submit a proposal to the division that describes the workplace modifications the employer would make to accommodate an injured employee's return to work. The bill requires the division to guarantee that an approved employer would be reimbursed from the workers' compensation return-to-work account for the expenses incurred in implementing the modifications, up to the account's \$2,500 reimbursement limit, unless the division determines that the modifications differ materially from the employer's proposal.</p> <p>The law takes effect immediately.</p>
HB 1003	Giddings	<p>Relating to professional licensing requirements for independent review of certain medical decisions regarding workers' compensation claims.</p> <p>The bill amends the Labor Code and Insurance Code to provide that, notwithstanding Section 4202.002, Insurance Code (relating to the independent review organization), an independent review organization that uses doctors to perform reviews of health care services provided under Labor Code Chapter 413 or Insurance Code Chapter 1305, may only use doctors licensed to practice in this state. It provides that the definition for IRO as used in Labor Code is the same as in Insurance Code Chapter 1305.</p> <p>The law takes effect September 1, 2007.</p>
HB 1005	Giddings	<p>Relating to the timely submission of a claim for payment by a workers' compensation health care provider.</p> <p>This bill amends the Labor Code to clarify that a health care provider who fails to submit a medical bill within 95 days after the services are provided to the injured employee, as required by statute, does not forfeit the right to reimbursement solely because of the failure to timely file the claim if the provider submits proof that is satisfactory to the commissioner that the provider timely filed the bill with a group accident and health insurer or an HMO that issues coverage under which the injured employee is covered; a workers' compensation insurance carrier or the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the provider's normal business operations. The provider is required to submit the claim to the correct insurer within 95 days of being notified of the erroneous submission.</p> <p>The bill also specifies that parties may agree to extend the period for submitting a claim.</p> <p>The law takes effect September 1, 2007 and applies to a claim for payment for services rendered on or after September 1, 2007.</p>
HB 1006	Giddings	<p>Relating to doctor licensing requirements for peer review, utilization, and retrospective review of medical decisions regarding workers' compensation</p>

		<p>claims.</p> <p>This bill amends the Labor Code and the Insurance Code to require that URAs and insurance carriers use doctors licensed to practice in Texas for performing utilization review or review conducted under the Workers Compensation Act or Insurance Code, Chapter 1305. The bill provides that the definitions for “credentialing” and “retrospective review” in Labor Code, Chapter 401, are the same as in Insurance Code 1305, and that the definitions for “utilization review” and “Utilization Review Agent” are the same as in Insurance Code, Chapter 4201. The bill also updates citations so that they reference the recodified Insurance Code Chapter 4201.</p> <p>The law takes effect September 1, 2007 and applies only to a review provided under a claim for workers’ compensation benefits that is conducted on or after this effective date.</p>
HB 1066	Delisi	<p>Relating to health information technology and the creation of the Texas Health Services Authority.</p> <p>This bill enacts new Chapter 182 of the Health and Safety Code that creates the Texas Health Services Authority, a non-profit corporation, as a public-private collaborative to implement the state-level health information technology functions identified by the Texas Health Information Technology Advisory Committee by serving as a catalyst for the development of a seamless electronic health information infrastructure to support the health care system in the state and to improve patient safety and quality of care.</p> <p>The corporation is established to promote, implement, and facilitate the voluntary and secure electronic exchange of health information; and create incentives to promote, implement, and facilitate the voluntary and secure electronic exchange of health information.</p> <p>The corporation is subject to Chapter 325, Government Code. Unless continued in existence as provided by that chapter, the corporation is abolished and the enacted Chapter 182, Health and Safety Code, expires September 1, 2011. The governor may order the dissolution of the corporation at any time the governor declares that the purposes of the corporation have been fulfilled or that the corporation is inoperative or abandoned.</p> <p>The law takes effective immediately.</p>
HB 1070	Laubenberg	<p>Relating to the liability insurance requirements for certain amusement rides.</p> <p>This bill amends the Occupations Code to establish new criteria for liability insurance for amusement rides that operate in a manner similar to a train and have prescribed safety features. The bill also permits a local government to satisfy insurance requirements for operating amusement rides by obtaining liability coverage through an interlocal agreement.</p> <p>The law takes effect immediately.</p>
HB1590	Smithee	<p>Relating to lapse rates in the computation of reserves for certain life insurance contracts.</p> <p>This bill amends the Insurance Code to allow the minimum standard of valuation of a universal life insurance contract to include a lapse rate of up to two percent per year in the calculation of reserves for a secondary guarantee in such a contract issued after December 31, 2006. The bill authorizes the commissioner to adopt rules to implement the provisions of this act.</p> <p>The law takes effect June 1, 2007.</p>
HB 1594	Zerwas	<p>Relating to expedited credentialing for certain physicians providing services under a managed care plan.</p> <p>This bill provides for expedited credentialing and payment for a physician who joins an established medical group that is currently contracted with the carrier if the physician meets certain criteria. Addresses the payment of the physician by both the carrier and the enrollee. It also provides for the recovery of payment differences if the physician fails to meet the credentialing</p>

		<p>requirements. It further prohibits the physician from balance billing the enrollee for the difference.</p> <p>The law takes effect September 1, 2007, and applies only to credentialing of a physician under a contract entered into or renewed by a medical group and an issuer of a managed care plan on or after September 1, 2007.</p>
HB1847	Hancock	<p>Relating to certain noninsurance benefits and related services for accident, health, life, and long-term care insurance.</p> <p>Allows an insurer to include a noninsurance benefit that is reasonably related to a policy or certificate as part of the policy or certificate. Types of benefits include discount cards for health programs, financial planning and will preparation and contributions for education savings.</p> <p>The form filing must include a description of the benefit, notice disclosing the benefit and an explanation of any condition on which termination of the benefit will occur.</p> <p>Commissioner may adopt rules to implement the section including which benefits are reasonably related and that the benefits are not unfairly deceptive. The law takes effect immediately.</p>
HB 1919	Smith, T	<p>Relating to health benefit plan coverage for treatment for certain brain injuries and serious mental illnesses.</p> <p>This bill requires coverage for certain treatment of acquired brain injuries under a health benefit plan, other than a small employer health benefit plan. It requires coverage for reasonable expenses related to periodic reevaluation of the care of an individual who has incurred an acquired brain injury; has been unresponsive to treatment; and becomes responsive to treatment at a later date. Health benefit plan issuers, other than a small employer health benefit plan issuer, must provide annual notification to each insured or enrollee under the plan in writing about the coverages described by Section 1352.003. The notice to enrollees will be designed by the commissioner in consultation with the Texas Traumatic Brain Injury Advisory Council.</p> <p>The bill also requires that a small employer health benefit plan may not exclude coverage for cognitive rehabilitation therapy, cognitive communication therapy, neurocognitive therapy and rehabilitation, neurobehavioral, neurophysiological, neuropsychological, or psychophysiological testing or treatment, neurofeedback therapy, remediation, post-acute transition services, or community reintegration services necessary as a result of and related to an acquired brain injury.</p> <p>The bill further requires that, at a minimum, a health benefit plan must provide coverage as provided by this section to an enrollee older than two years of age and younger than six years of age who is diagnosed with autism spectrum disorder.</p> <p>The law takes effect September 1, 2007 and applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2008.</p>
HB 1956	Hancock	<p>Relating to the financial responsibility requirements applicable to owners or operators of underground storage tanks.</p> <p>This bill amends the Water Code to require an owner or operator of an underground storage tank used for storing petroleum products to submit annually to the Texas Commission on Environmental Quality (TCEQ) proof that the owner or operator maintains financial responsibility. In addition, the bill requires an insurance company or other entity that provides insurance coverage or another form of financial assurance to comply with financial responsibility requirements to notify the TCEQ if the insurance coverage or other financial assurance is canceled or not renewed. The bill requires such notice to be mailed not later than the 30th day after the date the coverage terminates. The bill also requires the Texas Department of Insurance to adopt rules to implement the subsection relating to the notice requirements. Lastly,</p>

		<p>the bill provides enforcement authority to the commission and the commission may order an owner or operator of an underground storage tank that fails to maintain acceptable evidence of financial responsibility to place the tank out of service.</p> <p>The law takes effect September 1, 2007 and applies to insurance policies or other forms of financial assurances that are terminated on or after January 1, 2008.</p>
HB 1977	Taylor	<p>Relating to the Texas Health Insurance Risk Pool.</p> <p>This bill amends eligibility for coverage under the Texas Health Insurance Risk Pool (THIRP). It also defines “creditable coverage” in essentially the same terms as defined under Ch. 1205, Insurance Code. It exempts the THIRP from any state tax, regulatory fee, or surcharge. It provides for feasibility study of a program which allows an individual covered by a group HBP to also secure coverage through THIRP as secondary coverage. It allows a “federally defined eligible individual” to be eligible for THIRP coverage, even if they had terminated previous THIRP coverage within the preceding 12 months. It defines a “significant break in coverage” to be “a period of 63 consecutive days during all of which” a person did not have health coverage, excluding any waiting or affiliation period. It amends the list of coverages <i>not</i> qualifying as a “health benefit plan.” It removes eligibility for persons whose premiums are paid for or reimbursed by a government-sponsored program or by a government agency or health care provider. It limits the term of the pool administrator to a period of three years with a total term of six years. It requires a health benefit plan carrier to report their gross premiums collected to THIRP and amends the assessment methodology.</p> <p>The law takes effect June 30, 2007, except Sections 1, 2, 4, 5, 6, 7, 8, 9, 10, and 14 take effect January 1, 2008. Applies only to a state tax, regulatory fee, or surcharge due on or after June 30, 2007. Applies to an assessment for a calendar year or portion of a calendar year beginning on June 30, 2007. Applies only to an application for initial or renewal coverage, filed on or after January 1, 2008.</p>
HB 2004	Giddings	<p>Relating to requiring that a doctor who reviews a workers’ compensation case be certified in a professional specialty appropriate to the care received by the injured employee.</p> <p>The bill requires that doctors performing peer review, utilization review, independent review, required medical examination or as a designated doctor must be certified in the specialty appropriate to the care the injured employee is receiving.</p> <p>The bill further requires that providers reviewing dental or chiropractic services must be licensed in these specific areas.</p> <p>The bill also provides that a member of the medical quality review panel, other than a chiropractor, reviewing a workers’ compensation case must also be certified in a specialty appropriate to the care the injured employee is receiving. A chiropractor is subject to the section regarding chiropractic services.</p> <p>The law takes effect September 1, 2007 and applies only to a review of a health care service provided under a claim for workers’ compensation benefits that is conducted on or after that effective date.</p>
HB 2015	Smithee	<p>Relating to the reporting of claim information under certain group health plans; providing administrative penalties. Incorporates federal statutory definitions of “Group Health Plan”, “Health Insurance Issuer” et. al.</p> <p>Applies to governmental entities.</p> <p>Requires a health insurance issuer to provide claim information requested by a plan, plan sponsor or plan administrator not later than 30 days of receipt of a written request. Limited to 2 requests in a 12 month period.</p> <p>Information must be provided for the preceding 36 months or the entire period</p>

		<p>of coverage, whichever is shorter. Bill specifies the specific information that must be provided.</p> <p>A health insurance issuer is not required to report protected health information that the issuer would be prohibited from reporting in another state or under federal law due to more stringent privacy restrictions than HIPAA.</p> <p>For certain items (e.g. claims of 15K) of protected health information the plan requestor must provide a certification to the issuer that the plan will safeguard and limit use of the information.</p> <p>A plan issuer must request a report before the second anniversary of the date of termination of coverage.</p> <p>Within 10 days of receipt of the report the plan requestor may request additional information (if a certification has been provided) regarding prognosis, case management future expected cost and treatment plan. The issuer must respond to the request within 15 days.</p> <p>An issuer that complies with the statute is not liable for civil damages or criminal prosecution for releasing the info. An issuer that fails to comply is subject to Chapter 84.</p> <p>Repeals: 21.49-15 relating to information insurer is required to provide to a governmental entity.</p> <p>Chapter 1209 Insurance Code relating to information required to be provided to an employer sponsoring a group health benefit plan.</p> <p>Section 1501.614 Ins Code relating to information reported to small or large employers.</p> <p>Law takes effect September 1, 2007 and applies to requests on and after January 1, 2008.</p>
<p>HB 2118</p>	<p>Pickett</p>	<p>Relating to licensing and regulation of residential fire alarm technicians and regulation and installation of fire detection and alarm devices.</p> <p>This bill amends the Insurance Code to establish a new “Residential Fire Alarm Technician” License for the installation of fire alarms in one- or two-family dwellings.</p> <p>The bill also amends the Health and Safety Code to require working smoke detectors in one- or two-family dwellings constructed in this state and in sorority or fraternity houses in accord with building codes in effect in the political subdivisions in which they are located.</p> <p>The bill also sets forth requirements for sellers of dwellings and provides for disclosure notices to purchasers.</p> <p>The Commissioner of Insurance is required to adopt rules and forms not later than March 1, 2008 to implement the changes in law made by Insurance Code Article 5.43-2.</p> <p>The law takes September 1, 2007, and a residential fire alarm technician is not required to obtain a license under Insurance Code Article 5.43-2 before June 1, 2008.</p>
<p>HB 2251</p>	<p>Taylor</p>	<p>Relating to advertising by certain insurers.</p> <p>The bill would define web pages that do not describe specific products or that do not include an “opportunity” to apply or obtain a quote, as institutional advertising, even if they contain links to web pages that do describe products or permit applying or requesting quotes. It would also establish that required disclosures on web pages subject to insurance advertising rules could be provided through links “prominently placed” on the affected web page. The bill would codify as statute and revise rule disclosure requirements regarding Medicare-related insurance products. It would also confirm that ads referring to preferred provider benefit plans may identify such products as “PPO plans.”</p> <p>The bill would codify as statute and slightly revise current rule disclosure requirements relating to “guaranteed renewable” accident and health coverages.</p> <p>The bill would establish that ads that are identical or “substantially similar” to ads TDI has previously reviewed and accepted would not be required to be</p>

		<p>filed again for review. The law takes effect September 1, 2007.</p>
HB 2252	Taylor	<p>Relating to provision of health-related services, health care information, and incentives promoting disease prevention, wellness, and health by certain insurers and related entities and certain health care providers. The bill relates to disclosure of information about health care related services or access to health care information provided to persons covered by health benefit plans and would provide that such disclosures as set out in the bill would not be considered discrimination or inducements, specifically setting them out as exceptions under Insurance Code §541.058. The bill includes definitions for both “health-related services” and “health-related information.” The bill provides that in connection with a health insurance benefit plan, the issuer may provide health related services or health related information to insureds or other covered persons or disclose information about availability of additional services to prospective insureds or other covered persons. It also would provide a parallel provision for HMO enrollees and prospective enrollees or contract holders. The law takes effect immediately.</p>
HB 2467	Solomons	<p>Relating to modification of certain small and large employer health benefit plans. Allows a small or large employer health benefit plan issuer to modify a small or large employer benefit plan if the modification occurs at the time of renewal, the modification is effective uniformly among all employers covered by that plan and the issuer provides notice to the commissioner and the employer not later than 60 days before the modification. The law takes effect September 1, 2007 and applies to plans delivered or issued on or after January 1, 2008.</p>
HB 2548	Smith, T	<p>Relating to coverage limitations in health benefit plans. Prohibits a preexisting condition in an individual accident and health policy from applying to an individual who was continuously insured for an aggregate period of 18 months by creditable coverage that was in effect not more than 63 days before the effective date of the individual coverage. Current law does not provide creditable coverage for an individual whose most recent coverage was under an individual plan. HB 2548 allows creditable coverage for such policies. The bill also changes the eligibility requirements for the Health Insurance Risk Pool in two situations. Part-time employees who are eligible to participate in an employer plan that provides health benefit coverage are eligible to participate in the Risk Pool if the coverage provided by the employer is more limited or restricted than the Pool’s coverage and the employer does not provide any contribution to the premium. Also, individuals who were eligible for COBRA benefits (Consolidated Omnibus Budget Reconciliation Act) who did not elect coverage or whose election lapsed or was canceled and not reinstated are eligible for Pool coverage subject to a 180 day exclusion for charges or expenses incurred during the 180 day period that were for preexisting conditions. The law becomes effective immediately.</p>
HB 2549	Smith, T	<p>Relating to eligibility of certain dependents for group life insurance This bill amends the specifications regarding the coverage of children and grandchildren. The bill allows coverage under a group life insurance policy to be extended to cover children who are unmarried and younger than 25. It also adds the ability to extend coverage to grandchildren who are unmarried and younger than 25 and a dependent of the insured for federal income tax purposes.</p>

		The law becomes effective September 1, 2007 and applies to group life insurance policies delivered, issued for delivery or renewed after January 1, 2007.
HB 2551	Smith, T.	<p>Relating to refund of excessive or unfairly discriminatory premium; providing penalties.</p> <p>During the 79th Legislature, two different versions of subsections (b-1) and (b-2) of 5.144 concerning refunds of excessive or discriminatory residential property insurance premiums were enacted. The bill consolidates the differing versions. The revised statute authorizes the commissioner to order an insurer to pay interest on the amount of the premium that is excessive and credited or refunded to the policyholder. Further the rate of interest to be assessed is established as the lesser of 18 percent or the sum of six percent and the prime rate for the calendar year in the commissioner's order was issued.</p> <p>The period for the refund begins on the date TDI first provides the insurer with formal notice that the rate is excessive. An insurer may not be required to pay any interest penalty if the insurer prevails on appeal of the commissioner's order and an insurer may not claim any premium tax credit to which is it entitled unless the insurer has complied with the refund or discount provisions of this law.</p>
HB 2569	Thompson	<p>Relating to abolition of certain fraud reporting requirements regarding motor vehicle insurance.</p> <p>Repeals Chapter 702 of the Insurance Code, Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting.</p> <p>Insurance Code Chapters 701, Insurance Fraud Investigations and 702 relate to the reporting of insurance fraud. Chapter 702 was enacted in 1985 (Article 21.78), six years prior to the enactment of Article 1.10D (the predecessor to Chapter 701). Chapter 702 is much narrower in scope than Chapter 701, pertaining only to fraud committed against auto insurers, specifically motor vehicle theft or motor vehicle insurance fraud. Once Article 1.10D was enacted, it established the Fraud Unit and the guidelines for reporting and investigating all lines of insurance fraud, thus eliminating the need for a statute that only pertains to motor vehicle fraud. There were some provisions in Insurance Code Chapter 702 that were in conflict with Chapter 701 and differing definitions of the same terms exist within the two statutes.</p> <p>The repeal becomes effective immediately.</p>
HB 2761	Eiland	<p>Relating to requirements governing suitability in certain annuity transactions with consumers.</p> <p>Establishes standards and procedures regarding recommendations made to consumers regarding the purchase or exchange of annuities.</p> <p>The bill requires an agent or insurer, prior to the execution of a purchase or sale of an annuity to obtain information regarding the consumer's financial status, tax status and investment objectives. The agent must determine that the annuity purchase or exchange is suitable for the consumer.</p> <p>Each insurer is required to operate a system that is reasonably designed to achieve compliance with the law and agents are required to adopt the system or establish and maintain their own system. The compliance system must include maintenance of written procedures and periodic reviews of the insurer's or agent's records to check for violations. Maintenance and review of the compliance system may be accomplished through a third party. An insurer may require an agent to obtain certification from the contracted third party that the third party is performing the required functions.</p> <p>Compliance with the conduct rules of the National Association of Securities Dealers regarding suitability satisfies the requirements of the law.</p> <p>Agents and insurers are required to retain records of the information collected from consumers and information used in making a recommendation that was</p>

		<p>the basis for the transaction and must make the information available to the commissioner upon request.</p> <p>The commissioner may order an insurer, agent or managing general agent to take reasonably appropriate corrective action for any consumer harmed by a violation of the law. The commissioner also has sanctions under Chapter 82, Sanctions.</p> <p>The law takes effect September 1, 2007 and applies to a recommendation to purchase or exchange an annuity contract made on or after January 1, 2008.</p>
HB 2762	Eiland	<p>Relating to adoption of requirements regarding the replacement of existing life insurance policies and certain annuities; imposing penalties.</p> <p>Establishes standards and procedures regulating the activities of insurers and agents concerning the replacement (e.g. existing policy is lapsed, surrendered or converted to paid-up insurance) of existing life insurance and annuities. The commissioner is required to adopt by rule, model documents to be used for the consumer notices required by the chapter. The commissioner may adopt other rules necessary to implement and enforce the chapter.</p> <p>The law sets forth the Duties of Insurers and Agents; Duties of Insurers That Use Agents; Duties of Replacing Insurers That Use Agents; Duties of Existing Insurer; and Duties of Insurers Regarding Direct Response Solicitations.</p> <p>This legislation requires agents to obtain information regarding whether an applicant for life insurance or annuities has existing policies or contracts. If so the agent must present and read a notice to the applicant that minimally identifies the policies or contracts to be replaced and whether a policy will be used to finance the new contract.</p> <p>The agent and insurer must retain all sales material, notices and other required documentation. Insurers must establish a system to inform agents and monitor compliance with this law. The law sets forth requirements for the notification and exchange of information between replacing and existing insurers and sets forth penalties for insurers or agents that fail to comply with the law.</p> <p>The law takes effect September 1, 2007 and applies to replacements that occur on or after January 1, 2008. The commissioner must adopt rules and approve model documents not later than December 1, 2007.</p>
HB 2765	Eiland	<p>Relating to certain variable insurance contracts.</p> <p>This bill allows the issue of the issue of private placement variable insurance contracts to accredited investors or qualified purchasers. It requires a private placement contract to be offered and sold in a transaction exempt from registration under the Securities Act. It permits an insurer issuing private placement contracts to defer payment of cash surrender, loans, and death benefits subject to the liquidity of the separate account assets.</p> <p>The law takes effect September 1, 2007, and applies only to a private placement contract that is delivered, issued for delivery, or renewed on or after January 1, 2008.</p>
HB 2935	King, Phil, Gallego	<p>Relating to the regulation of cigarettes; providing a penalty.</p> <p>This bill amends the Health and Safety Code to establish cigarette fire safety standards. The bill requires a manufacturer of cigarettes that are sold in the state to test the flammability of its product using prescribed methods and to certify to the state fire marshal that the cigarettes have been tested and meet the required performance standard. The bill specifies the information that is required in a certification, provides that a cigarette must be recertified every three years, and imposes a certification fee of \$250. The manufacturer is required to mark the cigarette packaging to indicate compliance using a marking that has been approved by the fire marshal; however, cigarettes used for testing consumer satisfaction and cigarettes that are sold outside the state or the United States are exempted. The bill requires the manufacturer to retain and provide copies of test results for three years and imposes a civil penalty for</p>

		<p>non-compliance. It authorizes the state fire marshal to adopt rules to administer these provisions and to inspect records and cigarette inventories to establish compliance. In addition, the state fire marshal must provide a copy of certifications to the comptroller, who is authorized to inspect cigarettes for the required marking and report to the state fire marshal. Violations of these provisions are subject to civil penalties, and the attorney general is authorized to bring an action in a district court for injunctive relief, or a civil penalty, or both. The bill creates the Fire Prevention and Public Safety Account in the general revenue fund to contain the penalties collected, and provides that these funds may be appropriated only to the state fire marshal to support fire safety and prevention programs. The bill requires the state fire marshal, not later than January 1 of each odd-numbered year, to report to the governor and presiding officers of the legislature regarding the administration and effectiveness of these provisions and to make recommendations to improve effectiveness. The bill was signed on June 15, 2007, and the law takes effect January 1, 2009, and cigarettes must be marked and brought into compliance with these provisions by January 1, 2010.</p>
HB 3064	Delisi	<p>Relating to registration and regulation of certain discount health plans; providing penalties.</p> <p>This bill makes the Texas Department of Licensing and Regulation (TDLR) responsible for the registration and regulation of discount health care plans operating in Texas. It requires program operators to be registered in Texas before offering discount health care programs. It sets minimum standards for advertising, solicitation, or marketing materials, disclosure materials, prescribe fees, and program operator contracts. It provides for disciplinary action and penalties including the suspension or revocation of certificates of registration. The law takes effect September 1, 2007, and the TDLR must adopt rules and procedures by January 1, 2008. A person is not required to register before April 1, 2008.</p>
HB 3271	Eiland	<p>Relating to the biennial hearing concerning title insurance and related information.</p> <p>The bill provides that a title agent or title underwriter may bring suit in district court for relief from a data or statistical call if it is unduly burdensome or not reasonably related to the discovery of information to be used in fixing rates or other matters pending in the biennial rate hearing. Suit must be brought within 30 days of receipt of the call.</p> <p>The bill also provides that any party to the rate hearing can seek the removal of another party; the decision of the commissioner being final and appealable. Finally, an association or other entity seeking party status and recommending a premium rate in the biennial hearing may request that the hearing be held at the State Office of Administrative Hearings.</p> <p>The law takes effect September 1, 2007 and applies only to the premium rate applicable to a title insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2009.</p>
HB 3358	Smithee	<p>Relating to prior approval of property and casualty insurance rates under certain circumstances.</p> <p>Prohibits an insurer that has filed a petition for judicial review of an order disapproving a rate from filing and using a higher rate in the same line of insurance than the rate in effect for the insurer at the time of petition before the matter is resolved, unless the commissioner approves the newly filed rate. If the commissioner requires an insurer to file a rate the commissioner must issue an order not later than 30 days after the request for filing is made specifying the reasons for requiring the rate filing.</p> <p>The law takes effect September 1, 2007.</p>
HB 3430	Strama	<p>Relating to the availability of information about state expenditures and rules,</p>

		<p>including the creation of a state database containing information on state expenditures, and to certain comptroller reports, and to certain amounts received by institutions of higher education.</p> <p>The bill amends Chapter 2006 of the Government Code regarding agency actions affecting small businesses to require certain actions prior to the adoption of rules that may affect small businesses.</p> <p>The bill defines “small business” as a legal entity, including corporation, partnership or sole proprietorship, which has fewer than 100 or less than \$6 million in annual gross receipts and is independently owned or operated.</p> <p>The bill requires an agency, prior to adopting a rule that may have an adverse economic impact on small businesses, to prepare an economic impact that estimates the number of small businesses subject to the proposal, projects the economic impact of the rule on the small businesses, and describe alternative methods of achieving the purpose of the proposed rule. It requires a regulatory flexibility analysis that includes the agencies considerations of alternative methods of achieving the purpose of the proposed rule.</p> <p>The bill further requires that the agency include the economic impact statement and the regulatory flexibility analysis in the notice of the proposed rule that the agency files with the Texas Register. The analysis must also be provided to the standing committees of each house of the legislature that is charged with reviewing the proposed rule.</p> <p>The bill also requires that the attorney general, in consultation with the comptroller, prepare guidelines to assist the state agency in determining a proposed rule’s potential adverse economic effect on small businesses and identifying and evaluating alternative methods of achieving the purpose of the proposed rule.</p> <p>The bill also requires that the comptroller shall establish and post on the Internet a database of state expenditures, including contracts and grants, that is electronically searchable by the public except in certain circumstances in which public access is not allowed.</p> <p>The comptroller shall establish the database not later than October 1, 2007.</p> <p>The law takes effect October 1, 2007 and Section 2006.002, Government Code, as amended by this Act, applies only to a rule that is adopted on or after January 1, 2008.</p>
<p>SB 10</p>	<p>Nelson, Brimer, Carona, Deuell, Eltife, Fraser, Harris, Janek, Shapiro</p>	<p>Relating to the operation and financing of the medical assistance program and other programs to provide health care benefits and services to persons in this state; providing penalties.</p> <p>This bill establishes a variety of new initiatives principally related to the state Medicaid program, which propose a host of studies, programs and mandates aimed at increasing coverage for the poor through creative funding, reducing fraud, and promoting healthy lifestyle choices through incentives. The following are highlights for some of the initiatives that directly impact TDI. It requires licensed entities to permit access to their databases to facilitate identification of the primary obligor on a Medicaid claim. It requires the development of a premium payment assistance program to assist uninsured and low-income people in obtaining and maintaining health benefit coverage. It authorizes the creation of regional health care programs by county commissioners courts. It provides for agent training regarding the health insurance premium payment reimbursement program and its eligibility requirements and allows agents to receive continuing education credit. It requires a study on the feasibility and impact of creating a Healthy Texas Program, through which small employer health insurance would be offered to eligible persons. It establishes a committee on health and LTC insurance incentives to study ways to reduce the number of Texans without health coverage or LTC insurance; reduce the need for Medicaid assistance; reduce costs and expand the availability of coverage; and develop recommendations.</p>

		<p>It requires a study of the feasibility of creating a small employer premium assistance program that will facilitate the purchase of private employer coverage.</p> <p>The law takes effect September 1, 2007, with the exception of Section 30 which takes effect June 14, 2007.</p>
SB 22	Nelson	<p>Relating to long-term care insurance and a partnership for long-term care program and to the eligibility for certain home and community-based services. The bill creates a Partnership for Long-Term Care Program which is to be administered as part of the medical assistance program by the Health and Human Services Commission with the assistance of TDI. The commissioner, in consultation with the Health and Human Services Commission, shall adopt minimum standards for a long-term care benefit plan that may qualify as an approved plan under the partnership for long-term care program. The program must be consistent with provisions governing the expansion of a state long-term care partnership program established under the federal Deficit Reduction Act of 2005 (Pub. L. No. 109-171).</p> <p>The bill also creates a Long-Term Care Insurance Awareness and Education Campaign in which the Department of Aging and Disability Services and TDI shall cooperate with and assist the Health and Human Services Commission in implementing the campaign.</p> <p>The bill also amends the Human Resources Code to provide that in determining an applicant's eligibility for home and community-based services as provided by the Health and Human Services Commission under the federal Social Security Act, the Health and Human Services Commission shall exclude \$20 of unearned or earned income from the applicant's monthly income.</p> <p>The law takes effect March 1, 2008, and the provision regarding eligibility for home and community-based services takes effect September 1, 2007.</p>
SB 303	Harris	<p>Relating to health care coverage for a child in a suit affecting the parent-child relationship.</p> <p>This bill clarifies the statutory child support calculation for determining the net resources of an obligor by specifying in greater detail the manner in which health care coverage may be deducted from net resources. The bill also requires the court, prior to rendering a final order in suits affecting the parent-child relationship, to make specific fact findings with respect to the manner in which health care coverage is to be provided to the child and changes language of the guidelines under which health care for the child is to be ordered.</p> <p>The law takes effect September 1, 2007 and applies to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.</p>
SB 382	Carona	<p>Relating to certain refund requirements regarding credit insurance. Requires each individual policy or group policy and certificate to include a written notice stating that if the underlying debt is terminated early, the debtor is entitled to a refund of unearned premium. The notice must also state that the holder of the debt shall, not later than 60 days, provide notice to the insurer of the termination of the debt.</p> <p>Unearned premium must be refunded no later than 30 days after receipt of the notice. If the insured sues the insurer for failure to refund unearned premium, the insurer shall be entitled to indemnity from a holder who failed to send the required notice to the insurer.</p> <p>The law takes effect September 1, 2007 and applies to a credit life or credit accident and health policy issued or delivered after January 1, 2008.</p>
SB 458	Watson	<p>Relating to workers' compensation medical benefits for certain prosthetic or orthotic devices.</p> <p>This bill amends the Labor Code to define "orthotic device" and "prosthetic device" and to include the provision and fitting of, change or repair to, and</p>

		<p>training in the use of such devices within the meaning of “health care” as the term relates to workers’ compensation benefits. The bill also amends the Insurance Code to add a reference to the Labor Code definitions of those devices in a corresponding definitions provision relating to workers’ compensation health care networks.</p> <p>The law takes effect September 1, 2007.</p>
SB 471	Brimer	<p>Relating to certain information reporting requirements regarding workers’ compensation claims.</p> <p>This bill amends the Insurance Code to require the commissioner of insurance to establish by rule the information that must be reported on workers’ compensation claims and the reporting requirements for insurance companies relating to those claims, and removes provisions specifying such information and requirements. The bill authorizes the commissioner to reduce or eliminate reporting requirements for insurance companies whose workers’ compensation insurance business falls below a specific minimum premium volume established by the commissioner.</p> <p>The law takes effect September 1, 2007.</p>
SB 502	Averitt	<p>Relating to minimum insurance coverage amounts to establish evidence of financial responsibility under the Texas Motor Vehicle Safety Responsibility Act and to providing information with regard to compliance with the Act.</p> <p>This bill amends the minimum coverage amounts in the Transportation Code, effective April 1, 2008, to \$25,000 for bodily injury or death to any one person, \$50,000 for bodily injury or death to two or more persons in one accident and \$25,000 for property damage in one accident. Effective January 1, 2011 the limits increase to 30/60/25. The current limits are 20/40/15.</p> <p>The bill also requires the Texas Department of Insurance to establish an outreach program to inform persons of the requirements of this chapter and the ability to comply with the financial responsibility requirements of this chapter through motor vehicle liability insurance coverage. The commissioner, by rule, must establish the requirements for the program. The program must be designed to encourage compliance with the financial responsibility requirements, and must be made available in English and Spanish.</p> <p>The law takes effect September 1, 2007.</p>
SB 611	Lucio	<p>Relating to reporting certain information regarding residential property and personal automobile insurance and public Internet access to that information.</p> <p>This bill adds a new subchapter to Chapter 32 of the Insurance Code that requires the TDI, in conjunction with the Office of Public Insurance Counsel (OPIC), to establish and maintain a single Internet website that provides information to enable consumers to make informed decisions relating to the purchase of residential property insurance and personal automobile insurance. The website must include, among other things, side-by-side comparisons of the features of policy forms, rates, and other types of information. The website must be established not later than September 1, 2008.</p> <p>The bill also requires insurers to provide to TDI and OPIC any information that TDI and OPIC determine is reasonable or necessary to fulfill their duties under this subchapter, and insurers must also provide a notice with any property or auto policy of the Internet website required by this subchapter.</p> <p>The bill further requires quarterly reporting by insurers to TDI and by TDI to the governor, the lieutenant governor, the speaker of the house of representatives, the legislature, and the public, information related to market share, profits and losses, average loss ratio, etc. and any other information the commissioner determines is necessary to comply with this section on quarterly reports.</p> <p>The law takes effect immediately, and the section regarding the duties of an insurer applies only to an insurance policy that is delivered, issued for delivery,</p>

		or renewed on or after January 1, 2008.
SB 704	Lucio, Ellis, Van de Putte, West, Royce	<p>Relating to the small contractor participation assistance program for certain state construction projects.</p> <p>This bill requires the Building and Procurement Commission to maintain a small contractor participation assistance program for small contractors participating in public works projects that will involve a contract or multiple contracts with an estimated cost of more than \$1 million.</p> <p>The program must provide several types of assistance to small contractors, including a method developed with guidance from the Department of Insurance to assist these contractors with preparing bond applications and obtaining bonds required to participate in the program. The Department of Insurance will also assist the commission with training information relating to these bonds.</p> <p>The law takes effect September 1, 2007.</p>
SB 978	Watson	<p>Relating to certain insurance premium surcharges.</p> <p>This bill raises the number of claims required before an insurer is allowed assess a premium surcharge at renewal on certain residential property policies from one claim in the preceding three policy years to two claims. It does not change the requirement that the amount of the surcharge must be based on solid actuarial principles.</p> <p>The law takes effect September 1, 2007.</p>
SB 1138	Duncan	<p>Relating to risk management programs for members and advisors of student organizations at public and private postsecondary educational institutions and to certain insurance requirements for fraternities.</p> <p>The bill requires that post secondary educational institutions provide a risk management program, at least once during each academic year, for members of student organizations registered at the institution. Any member of a student organization who is not otherwise required to attend may attend the program.</p> <p>The bill requires that unless the postsecondary educational institution requires each student organization to have representatives of the organization attend a program, the institution must adopt a policy that specifies one or more of those student organizations that are required to have representatives attend.</p> <p>The bill also requires the Department of Insurance to present a report to the Governor, Lieutenant Governor, Speaker of the House and standing committees in the House and Senate on results of a study that includes:</p> <ol style="list-style-type: none"> (1) the levels and types of insurance coverage fraternities at institutions of higher education in this state are required to carry by the fraternities' chartering or national organizations; (2) the availability and affordability of the levels and types of insurance coverage; and (3) whether the levels and types of insurance coverage are available in this state under: <ol style="list-style-type: none"> (A) insurance policies issued by insurers authorized to engage in the business of insurance in this state or by eligible surplus lines insurers; or (B) independently procured contracts of insurance. <p>Results must be submitted by January 1, 2009.</p> <p>The law takes effect September 1, 2007.</p>
SB 1153	Carona	<p>Relating to the use of title insurance to insure certain interests in personal property.</p> <p>This bill adds a new subtitle to Title 11 of the Insurance Code, regarding the Texas Title Insurance Act, that authorizes title companies to sell personal property lien protection and instructs TDI to adopt appropriate forms and rates for these new products. Before a premium rate may be fixed and forms adopted for personal property title insurance under this new Act, TDI must provide reasonable notice and a hearing must be afforded to title insurance companies,</p>

		<p>title insurance agents, and the public. The bill also provides that the initial hearing must be conducted by the State Office of Administrative Hearings not later than November 1, 2007.</p> <p>The law takes effect September 1, 2007 and applies only to a title insurance policy or contract delivered, issued for delivery, or renewed on or after January 1, 2008.</p>
SB 1169	Janek	<p>Relating to the reimbursement of an insurance carrier for the overpayment of certain workers' compensation benefits and to an interlocutory order for benefit payments.</p> <p>This bill amends the Labor Code to require reimbursement from the subsequent injury fund to an insurance carrier for any overpayment of workers' compensation benefits made by the insurance carrier based on an opinion by a designated doctor if that opinion is reversed or modified by a final arbitration award or a final order or decision of the commissioner of workers' compensation or a court. The bill also requires the commissioner of workers' compensation to adopt rules to provide for a periodic reimbursement schedule. The bill specifies that an insurance carrier is entitled to reimbursement from the subsequent injury fund for the amount of death benefits as well as income benefits paid to a worker with multiple employment that are based on employment other than that during which the compensable injury occurred. The bill requires the benefit review officer who presides at the review conference to consider a written or verbal request for an interlocutory order for the payment of benefits, and if an interlocutory order is determined appropriate, to issue the order not later than the third day after the receipt of the request. The law takes effect September 1, 2007.</p>
SB 1253	Averitt	<p>Relating to the frequency and expenses of certain examinations conducted by the Texas Department of Insurance. This bill allows the Department to examine a carrier as frequently as necessary, but not less frequently than once every 5 years. It requires a Workers' Compensation network to pay for the expenses of an examination, conducted under Insurance Code Sections 1305.251 or 1305.252, that are directly attributable to the examination and incurred by the commissioner or under the commissioner's authority. The law takes effect September 1, 2007.</p>
SB 1254	Averitt	<p>Relating to the Texas Health Insurance Risk Pool.</p> <p>This bill amends eligibility for coverage under the Texas Health Insurance Risk Pool (THIRP). It defines "creditable coverage" in essentially the same terms as defined under Ch. 1205, Insurance Code. It allows a "federally defined eligible individual" to be eligible for THIRP coverage, even if they had terminated previous THIRP coverage within the preceding 12 months. It defines a "significant break in coverage" to be "a period of 63 consecutive days during all of which" a person did not have health coverage, excluding any waiting or affiliation period. It adds on-site medical clinics and liability insurance to the list of coverages <i>not</i> qualifying as a "health benefit plan." It removes eligibility for persons whose premiums are paid for or reimbursed by a government-sponsored program or by a government agency or health care provider. It limits the term of the pool administrator to a period of three years with a total term of six years.</p> <p>The bill was signed on June 15, 2007, and the law takes effect January 1, 2008, and applies only to an application for initial or renewal coverage that is filed with the THIRP on or after January 1, 2008. It applies to an assessment under Subchapter F, Chapter 1506, Insurance Code, for a calendar year beginning on or after January 1, 2008.</p>
SB 1255	Averitt	<p>Relating to the powers and duties of certain small and large employer health cooperatives.</p> <p>Allows a health group cooperative to consist of small employers, larger</p>

		<p>employers or small and large employers. Current law prevents the latter.</p> <p>Allows a cooperative to restrict membership to small and large employers within a single industry grouping.</p> <p>Allows a small employer to join a group of small employers or small and large employers and allows a large employer to join any type of group.</p> <p>A health group cooperative that is composed of small and large employers may be treated as a large employer.</p> <p>Law takes effect September 1, 2007 and the section relating to elections applies to elections made on and after the effective date of the act.</p>
SB 1263	Brimer	<p>Relating to regulation and licensing of certain insurance agents</p> <p>Creates two new license types: “personal lines property and casualty agent” and “life agent.”</p> <p>The personal lines property & casualty license is required of a person acting as an agent selling property & casualty insurance to individuals and families primarily for personal or household use and a subagent. A person with this license type may also write accident & health insurance for individuals for a property & casualty insurer authorized to sell such products. The person may also write the kinds of insurance that can be written with a limited property & casualty license (e.g. job protection, crops, farm mutual), a county mutual license and a specialty agent license (e.g. rental car, travel and credit insurance).</p> <p>The life agent license is required of a person acting as an agent and writing coverage on human lives, disability, industrial life, fixed or variable annuities, and stipulated premium in excess of 15K on any one life. Agents with other types of limited licenses (e.g. life under 15K or funeral prearrangement life) are not required to obtain a life agent license.</p> <p>The new license types were added into current CE requirements.</p> <p>The law takes effect September 1, 2007. The commissioner shall adopt any necessary rules by December 1, 2007. Effective January 1, 2008, persons with broader licenses may receive the new license without reexamination.</p>
SB 1391	Uresti	<p>Relating to requirements in certain health benefit plans that certain health care services be obtained in a foreign country.</p> <p>This bill prohibits carriers from issuing or offering a health benefit plan in Texas that requires an insured/enrollee to travel to a foreign country to receive coverage for a health care service under the health benefit plan.</p> <p>The law takes effect September 1, 2007, and applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2008.</p>
SB 1542	Fraser	<p>Relating to registration statements filed by an insurer that is a member of an insurance company holding system.</p> <p>This bill amends the Holding Company Act and makes Texas law consistent with those of other states by requiring that Texas domestic insurance companies file a holding company registration statement (aka Form B) on an annual basis along with summary of material changes from the prior year’s annual registration statement as specified by rule. The bill also eliminates the requirement that an insurer registering under the holding company provisions must file a copy of the charter or articles of incorporation or bylaws.</p> <p>The law takes effect September 1, 2007.</p>
SB 1627	Carona	<p>Relating to the prosecution of workers’ compensation insurance fraud.</p> <p>Provides that a person who commits an offense under the Labor Code may be prosecuted under Chapter 418 of the Labor Code which sets out criminal penalties or any other law of the state under which the person may be prosecuted.</p> <p>This bill gives prosecutors the flexibility to use the penalty provisions in the Penal Code so that workers’ compensation fraud can be punished in the same</p>

		<p>manner as fraud committed against other lines of insurance. The maximum penalty for committing workers' compensation fraud under Chapter 418, Labor Code, is a state jail felony. This does not parallel the penalty provisions in the Penal Code which follow the standard value ladder for committing insurance fraud or other similar financial crimes and in which punishment is dependent upon the value of the claim. The law becomes effective immediately.</p>
<p>SB 1731</p>	<p>Duncan</p>	<p>Relating to consumer access to health care information and consumer protection for services provided by or through health benefit plans, hospitals, ambulatory surgical centers, birthing centers, and other health care facilities, and funding for health care information services; providing penalties. The legislation requires the Department of State Health Services (DSHS) to provide a consumer guide to health care on the agency's website. The guide must include information concerning facility pricing practices and the correlation between a facility's average charge and the actual billed charge. The guide must include information to advise consumers that they may be personally liable for payment depending on the consumer's health benefit plan coverage. The legislation requires TDI to collect data concerning health benefit plan's aggregate reimbursement rates paid by the plan for services identified by TDI and disseminate the information for geographical regions in this state. TDI must provide the information to the DSHS for publication. The information must be submitted in a manner to allow comparison to other standard reimbursement rates such as Medicare. TDI is allowed to contract with a third party and the data collected is confidential and not subject to disclosure under the open records statutes. Facilities - defined as ambulatory surgical centers, birthing center and hospitals - are required to develop, implement and enforce written policies for the billing of facility health care services and supplies. The policies must address discounting of charges, providing of an itemized statement, complaint handling, and the providing of a written disclosure that advises the consumer whether the facility participates under the consumer's third-party payor coverage and that a provider may provide services while at the facility who may not be a participating provider with the same third party payors as the facility. Facilities must provide an estimate of the facility's charges for any elective admission or non-emergency outpatient surgical procedure, prior to scheduling the procedure within 10 business days of receiving a request for such information. The legislation specifies information that must be included with the estimate including that the consumer may be personally liable for payment for the admission or procedure. A consumer may request an itemized statement up to one year after discharge from the facility. The facility must also provide an itemized statement to a third party payor who has received a claim for payment if the payor requests the information within a year of receipt of the claim. A facility must establish an implement a procedure for handling consumer complaints. Physicians are subject to similar requirements to develop, implement and enforce written policies for the billing of health care services and supplies. Physicians are required to provide an estimate of charges for healthcare services and supplies and if requested a plain language written explanation or charges previously made on a bill or statement for the patient. The Texas Medical Board is required to make available on the Board's internet website a consumer guide to health care which includes information concerning the billing and reimbursement of health cares services provided by physicians.</p>

		<p>The legislation requires additional information elements to be added to the HMO annual report and requires the annual report to be available on TDI's website. A similar report is required of insurers relating to their preferred provider benefit plans. An exemption is provided for insurers with \$10 million or less in group coverage premium or \$2 million or less in individual premiums.</p> <p>A health benefit plan must provide notice to enrollees that a facility based physician may not be included in the plan's provider network and that such health care provider may balance bill the enrollee. The commissioner may prescribe the specific requirements of the disclosure. The bill requires the plan to identify facilities within the network in which facility based physicians do not participate.</p> <p>A health benefit plan must, upon request of an enrollee provide an estimate of payment that will be made for any health care service and amount for which the enrollee is responsible, such as applicable deductibles, copayments and coinsurance.</p> <p>The legislation also requires a non-contracted facility based physician that bills a patient to provide specified information with the billing statement.</p> <p>The legislation requires the commissioner to appoint an advisory committee to study facility-based provider network adequacy of health benefit plans. The advisory committee shall report its findings not later than December 1, 2008. The commissioner must also adopt rules to require each health benefit plan to submit information concerning the use of non-network providers by enrollees and the payments made to those providers for a 12-month period to be specified by the commissioner.</p> <p>Insurers and HMOs are required to provide information on request regarding whether a physician or other provider is a participating provider in the network, whether health care services are covered by the health plan and the enrollee's or insured's personal responsibility for payment and for insurer's; the coinsurance amounts based on the provider's contracted rate and the insurer's usual and customary reimbursement rate for out-of-network services.</p> <p>The legislation requires a health benefit plan issuer, employer or other person who is required to provide notice to an individual regarding the availability to continue coverage through COBRA or the expiration or COBRA coverage to also provide notice of the availability of coverage under the Risk Pool.</p> <p>The law takes effect September 1, 2007 and applies to policy, certificate, contract or evidence of coverage issued on or after the effective date. The affected state agencies must adopt rules not later than May 1, 2008 except that rules to implement the data collection provisions must be adopted by December 31, 2007 and require the first submission not later than 60 days after the effective date of the rules.</p>
<p>SB 1884</p>	<p>Williams</p>	<p>Relating to liability for and calculation of underpayment penalties under certain provisions regarding prompt payment of physicians and providers under certain managed care plans.</p> <p>This bill revises the formula for calculating a penalty on an underpaid claim to allow for the deduction of the contracted rate. It lengthens the time frame in which a physician or a provider has to notify an HMO or a PPBP of an underpayment of a claim to 270 days after receipt of an underpayment. It shortens the time frame HMOs and PPBPs have to pay the balance of the claim to on or before the 30th day in order to avoid liability for a penalty on an underpaid claim.</p> <p>The law takes effect September 1, 2007, and applies to payment of a claim submitted to a HMO or insurer on or after September 1, 2007.</p>

Texas Department of Insurance Legislation Not Passed - 80th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Reason the Bill Did Not Pass
HB 2191	Eiland	<p>Amends Texas Insurance Code, §822.205 to subject previously exempt insurance companies to risk based capital requirements (RBC) that the commissioner may adopt by rule under Texas Insurance Code, §822.210. C.S.H.B. 2191 includes a transition period to allow impacted insurers a phase-in period to comply with RBC requirements as additional time may be required to avoid unintended impacts to the market and affected insurance companies. C.S.H.B 2191 also contains provisions that require the commissioner of insurance to adopt requirements for certain niche carriers that are authorized by Texas Insurance Code, Chapter 912 that cede 95 percent or more of their direct and assumed written premium. C.S.H.B 2191 specifies that these rules require a minimum amount of unencumbered surplus equal to the greater of \$2,000,000 or 5 percent of the carrier's net recoverables for reinsurance after taking into account certain funds, collateral and other specified criteria that serve to protect the financial condition of the carrier. These carriers are required by the Act to file a plan with TDI that reflects how compliance with the requirements will be achieved over a 10 year transition period.</p> <p>While stakeholder agreement was reached on this bill, it occurred too late to result in passage.</p>
HB 2547	Smith, T	<p>Deletes the filing exemptions for Lloyd's plan and reciprocal insurers for the larger carriers initially with a phase-in period for all other carriers of this type. Deletion of these exemptions would subject these types of licensed insurers to the same rate filing requirements and rating standards for commercial property, inland marine, rain, and hail as other licensed insurers. It would also provide for consistent form filing requirements for commercial lines of coverage for all licensed insurers.</p> <p>This bill did not pass largely due to stakeholder disagreement concerning the market impact.</p>
HB 2550	Smith, T.	<p>Related to investment statutes. Amends Texas Insurance Code, §§404.001 and 404.003 to specify applicability to foreign companies, to specify hearings before the commissioner regarding an order to remedy a financial condition, and to include a specific remedy of rectifying an asset deficiency that is not of the same type, quality, character or class of investment authorized under the Texas Insurance Code.</p> <p>While stakeholder agreement was reached on this bill, it occurred too late to result in passage.</p>
HB 2960	Smithee	<p>Restructures the funding mechanism for Texas Windstorm Insurance Association (TWIA) and also makes other changes to TWIA, with the overall goal of creating a system that does not excessively expose the state's general revenue to hurricane losses while at the same time allowing for strong, sustainable economic growth along the coast by making necessary insurance coverage available.</p> <p>This bill did not pass largely due to stakeholder disagreement over the proposed funding mechanism.</p>
SB 23	Nelson, Woolley	<p>Creates "TexLink," an office within TDI, to provide access to information and assistance in educating the public about the importance of health coverage and about numerous insurance options. Also would have extended</p>

		<p>the duration of certain provisions relating to the Texas Health Reinsurance System.</p> <p>House voted down the Conference Committee Report which did not include any of the amendments previously passed by the House.</p>
SB 828	West	<p>Authorizes the commissioner of insurance to require an insurance company to report how and what data mining technologies it uses for underwriting, setting rates and premiums, detecting fraud, and marketing. The bill also authorizes the commissioner to limit the use of these technologies if the commissioner finds that they use any factors not previously used for underwriting purposes, and requires TDI to report to the legislature on the use and impact of these technologies.</p> <p>This bill did not pass largely due to stakeholder opposition as to its impact on rating and underwriting practices.</p>
SB1432	Van de Putte	<p>Allows for the assigning of a rate consequence to a conviction for a violation of Subtitle C (Rules of the Road), Title 7, Transportation Code, and prohibits the application of this rate consequence from resulting in an adverse rate consequence or otherwise causing premiums for automobile insurance to be increased for insured who have not been convicted of such a violation.</p> <p>This bill was left pending in the Insurance Committee largely due to stakeholder disagreement concerning the market impact.</p>

IX. Policy Issues

Overview

To identify statutory changes that would improve agency operations and service delivery, the Texas Department of Insurance (TDI) considered four high-level questions:

- Should TDI's statutory authority be changed to better assist insurance consumers and injured employees and to maintain a stable insurance market?
- Should TDI's role be expanded to better ensure that Texans have adequate insurance coverage?
- Should TDI have additional policy flexibility to firmly and fairly regulate the insurance marketplace?
- Should TDI's statutory organizational structure be modified to better support the agency's mission?

From these four questions, we assessed issues raised by the agency, the Legislature and our stakeholders and identified the following policy recommendations:

- Regulate preferred provider organizations to increase protections for insurance consumers and injured workers
- Require insurers and agencies to maintain and test catastrophe and business continuity plans to strengthen the insurance industry's responsiveness to disasters, including weather, human-made, and pandemic events
- Create a system for fair reimbursement of out of network health care providers
- Increase the availability and affordability of health insurance as well as wind and hail insurance coverage
- Commence a pilot study for alternative rating structures for title insurance
- Engage the agency in greater policymaking authority to address technological advances that impact the type of products offered, the classifying of individual risks, and the rating of insurance products
- Moderate insurance coverage costs through greater rating flexibility for the Texas Windstorm Insurance Association, restructuring of the maintenance tax and fee assessments, and reviewing the continued viability of the Texas Health Reinsurance System
- Transfer the windstorm inspection function to the Texas Windstorm Insurance Association.

The policy issues that follow discuss the problems involved in these issues, TDI's role related to the issues, and the possible benefits and impacts of the recommended statutory changes.

A1. Brief Description of Policy Issue.

Should the Texas Department Insurance's (TDI) statutory authority be changed to better assist insurance consumers and injured employees and to maintain a stable insurance market?

B1. Discussion.

The following discussion examines three areas where changes in statutory authority could allow TDI to more effectively and adequately assist insurance consumers and maintain a stable insurance market. The areas are: preferred provider organizations, catastrophe and business continuity plans, and reimbursement of out-of-network providers.

Preferred Provider Organizations

A preferred provider is a health care provider, or an organization of health care providers, that contracts with an insurer to provide medical care or health care to insureds covered by a health insurance policy.² The organization of providers is often referred to as a Preferred Provider Organization (PPO). The *Texas Insurance Code*, however, does not define PPO and consequently TDI has little authority over a PPO despite the reality that a PPO may provide services under a TDI-regulated preferred provider benefit plan (PPBP). The statute defines PPBPs as benefit plans in which an insurer provides, through its health insurance policy, for the payment of a level of coverage different from the basic policy level of coverage if the insured person uses a preferred provider.³

In order to expand its network, a PPO may contract with other networks, sometimes referred to as silent PPOs, and thus may access discounts that the providers did not anticipate or grant through direct contract with the insurer. Many carriers rely on PPOs for a significant portion of the business of health care, such as developing networks, negotiating discounts with the providers on behalf of insurers, and processing and repricing claims. When problems with network adequacy or inappropriate discounts arise, carriers often direct the criticism and culpability to the PPO. However, as an unregulated entity, an indeterminate number of PPOs operate in the state without sufficient accountability and oversight.

In an attempt to address PPO regulation, TDI drafted an informal rule for comment and released it in November 2006 to the Technical Advisory Committee on Claims Processing, a formal working group comprised of providers and carriers. The rule would require a carrier to furnish a provider, at the time the carrier takes the discount, with proof of underlying contracts that permit the discount. Comments received to date reflect the opposing perspectives of providers and carriers. Providers generally state that, in cases involving silent PPOs, carriers benefit from discounts not specifically included in the provider's contract with the carrier. Carriers generally respond that most contracts with providers include a provision that authorizes the underlying contracts and discounts.

Catastrophe and Business Continuity Plans

In 2005, Hurricane Katrina devastated portions of the U.S. Gulf Coast. In the areas most heavily impacted by the storm, claims payment facilities for several insurance carriers, health maintenance organizations, workers' compensation carriers, and insurance agencies were destroyed or severely disrupted. As a result, TDI learned that a disaster need not happen in Texas in order to impact Texas' resources and require Texas governmental assistance. Hurricane Rita then followed, bringing with it the stark reality that weeks without utilities to more than 1 million people and businesses in Southeast Texas can render cities and towns unlivable.

² Insurance Code Section 1301.001(8)

Presently, no statutory requirement exists for the insurance industry to maintain and test catastrophe and business continuity plans. Absent such authority, Texas insurers risk significant losses following a disaster and disruption of services. Additionally, Texas consumers and injured employees face delayed responses following a disaster, a time when rapid, effective response is needed the most.

Health Care Reimbursement for Out-of-Network Providers

Balance billing refers to the practice of non-contracted, out-of-network providers billing patients covered under HMO and preferred provider benefit (aka PPO) plans for the difference between the amount the benefit plan paid and the amount the provider believes to be adequate reimbursement.

HMO Plans

In HMOs, balance billing generally should be rare. An HMO provides or arranges to provide covered services for enrollees on a pre-paid basis through a network of physicians and providers, referred to as providers in this policy issue. The enrollee pays only a scheduled charge for these services, usually a copayment. As long as the enrollee stays within the HMO network, no payment issues should arise. If an enrollee obtains services outside the network, the HMO is generally not obligated to pay for services. Two exceptions to this rule exist: 1) when the HMO must refer an enrollee out-of-network because its network does not include the appropriate provider, and 2) when emergency services are required.

HMO out-of-network referral

While Texas law contains a number of requirements promoting adequate HMO networks, networks may be inadequate for a number of reasons, including the inability of HMOs and providers to agree to contractual terms, usually involving payment rates. In such instances, Texas law guarantees adequate coverage, requiring HMOs without a sufficient network to provide medically necessary services through an out-of-network referral. The HMO must then fully reimburse the out-of-network provider at the usual and customary rate or at an agreed rate. This provision anticipates the parties will agree to payment terms before services are provided. The advance nature of the agreement should prevent balance billing.

Increasingly, referral to out-of-network providers is occurring after services have been rendered – a circumstance that may result in balance billing. This type of situation most often occurs with hospital-based providers, such as radiologists, anesthesiologists, pathologists, emergency room physicians and neonatologists. An enrollee may choose a network hospital and surgeon, but may receive ancillary services from out-of-network providers while hospitalized. After the service has been performed, the HMO and the provider may disagree on the amount of payment, and the provider may seek to recover payment from the enrollee to make up the difference. In this case, the enrollee did everything reasonably necessary to receive care through the network and should not be obliged to pay an amount other than a copayment or deductible. TDI requires the HMO to fully reimburse the provider at the usual and customary rate or an agreed rate and ensure that the enrollee is not responsible for payment of a balance bill. Nevertheless, the current situation sometimes results in HMO enrollees paying more than anticipated or required because they are billed beyond their deductibles and copays for out-of-network referrals. An enrollee who receives a balance bill should simply forward the bill to the HMO; however, most enrollees do not know to do so. When TDI has become aware of such situations, it has been successful in requiring that the HMO take care of the bill so that the member is not required to pay it.

HMO Emergency Services

The HMO Act requires an HMO to reimburse emergency services providers at the usual and customary rate or an agreed rate. The emergency services provision does not include the term “fully” as does the out-of-network referral situation discussed above. This creates ambiguity regarding what payment is required by the HMO and thus the possibility that the enrollee will be balance billed.

PPO Plans

With PPO plans, the balance billing issue is more complicated. PPO plans do not provide prepaid care, and some balance billing is inherent to such plans. PPO plans typically do not pay the entire amount billed by a provider, but pay only a percentage of an amount which is determined either by a contract with the provider (if the provider is a preferred provider) or by the carrier's determination of what is payable (if the provider is not contracted). The percentage level of reimbursement of out-of-network providers is lower than for network providers; accordingly, the insured would pay a higher percentage if using an out-of-network provider than if using a network provider. While network providers typically have contractually agreed to the amount of reimbursement (for which they will receive the higher percentage reimbursement), out-of-network providers have no such prior agreement or understanding. In such cases, the PPO issuer determines the amount of reimbursement. Some carriers might pay their percentage of the entire billed charge, while others might pay their percentage off of an amount they determine to be "usual and customary," "reasonable and customary" or an "allowable amount." When the out-of-network provider believes that amount is too low, the provider may seek to recoup from the member, not only the member's percentage, but also the entire remaining difference between the allowed amount and the billed charge. Often, the difference may be very large, and an enrollee often will not know in advance what amount a carrier will use in determining its payment.

The issue of balance billing has been more pervasive in the PPO environment, as a result of more services being obtained out-of-network. In addition, PPO members encounter similar instances of being billed by out-of-network providers who provide services in a network hospital. Necessary care that cannot be obtained in-network, as well as emergency care services, should be compensated at an in-network percentage; however, the insurer's ability to define the basic reimbursement amount may still lead to balance billing.

C1. Possible Solutions and Impact.

Regulate preferred provider organizations to increase protections for insurance consumers and injured employees.

To address concerns with the operation of Preferred Provider Organizations (PPO), the agency proposes providing TDI or the Texas Medical Board with additional authority to regulate PPOs, including authorizing TDI to require the registration of PPOs. Implementing these proposals would provide Texans with protections in this growing segment of the health coverage market.

Require insurers and agencies to maintain and test catastrophe and business continuity plans to strengthen the insurance industry's responsiveness to disasters, including weather, human-made, and pandemic events.

To address concerns with the potential loss of insurance business, services and assistance following a catastrophic event, TDI suggests a statutory requirement that insurance carriers, health maintenance organizations, workers' compensation carriers, and insurance agencies maintain and test catastrophe and business continuity plans.

Implementation of this proposal would reduce the potential for significant losses and delayed disaster response for Texas consumers and injured employees. This proposal would require the entire insurance industry to ensure that its disaster preparedness efforts meet the statutory requirements, both as to plan components and testing requirements. TDI's increased regulatory responsibility would ensure that these disaster preparedness requirements were followed and would allow the use of enforcement actions as necessary. The benefits of such a statutory change include protection of insurance industry resources and

solvency as well as an enhanced ability to assist consumers.

While the enactment of this proposal would positively affect Texas consumers during a time of need and would protect Texas insurers from significant loss of business, implementation would require considerable expenses and resources on the part of both the insurance industry and the agency. The insurance industry would be required to develop, maintain and test catastrophe and business continuity plans, while TDI would need to assess the impact on staffing resources required for financial examinations and legal enforcement.

Create a system for fair reimbursement of out of network health care providers.

The agency proposes that the Legislature consider setting a standard for compensation for out of network providers in the HMO and PPO contexts so that carriers are not required to pay unreasonably high billed charges and so providers are not forced to balance bill members due to carriers paying unreasonably low amounts. The Legislature could either set this rate by statute, delegate setting the rate to a state agency, or create a mandatory alternative dispute resolution system, such as arbitration, to resolve disputes over out of network payments. While determining rate standards would be contentious, once set, they would greatly simplify subsequent claims processing and prevent unexpected bills for consumers which sometimes can reach tens of thousands of dollars. Further, it should be noted that setting hard and fast price controls disrupts any economic system. Any law impacting usual and customary fees would need to be flexible, so the natural forces of supply and demand have influence over the final price.

A2. Brief Description of Policy Issue.

Should TDI's role be expanded to ensure that Texans have adequate insurance coverage?

B2. Discussion.

The following discussion examines various lines of insurance where affordability and availability for Texas consumers could be impacted if TDI's role were expanded. The lines of insurance included in the discussion are health, wind and hail, and title.

Health Insurance

Although TDI is not specifically charged with promoting the purchase of health insurance, the agency has become increasingly engaged in related activities as the number of Texans without health insurance has continued to increase. Consumers frequently contact the agency to ask for advice or assistance with efforts to find health insurance. The agency answers general inquiries and provide basic information on TDI's website and on TexasHealthOptions.com. The agency does not recommend a particular product or carrier. Nor has TDI undertaken the role to counsel the individual consumer regarding specific insurance choices. A change to TDI's statutory duties may be required if the agency is required to provide additional assistance by directing consumers to different health care options available in their area and appropriate to their needs.

Small employers in particular face numerous challenges when shopping for coverage. Estimates of the state's uninsured population indicate that approximately 80 percent of the uninsured either work for a small business or live in a family where at least one adult is employed by a small business. Since 2001, under a Federal State Planning Grant (SPG), the agency has been involved in a comprehensive study of the uninsured and has reviewed a wide range of options for expanding coverage within the small group market. Most recently, TDI received funds under the final stage of the SPG program to develop –but not implement – a pilot project for expanding coverage based on the earlier research conducted under the SPG program. At this point, the grant has concluded and the plan has been turned over to the Greater Houston Partnership to implement.

While legislative efforts over the past 10 years have greatly improved the opportunities for small groups to obtain health insurance, approximately 75 percent of small business owners do not offer health insurance. Though affordability is a primary barrier, employers also report numerous other challenges that discourage many small business owners from even looking for coverage. Following is a brief summary of the most common concerns raised by employers through focus groups, surveys and discussions with TDI staff as part of the SPG research work.

- Shopping for insurance is time consuming and confusing.
- Many health insurance agents will not work with small employers because of the time involved and small commissions.
- A strong belief that health insurance is unaffordable and difficult to understand.
- Health insurance is an added expense that provides little benefit to their business.
- The tax benefits are too difficult to understand (if the employer is aware of them at all).

Wind and Hail Insurance

Approximately 30 percent of Texas' population resides in counties along the Texas Coast and adjacent counties. The insurance industry estimates that in 2004, about \$750 billion in insured properties, both residential and commercial, in the state were vulnerable to hurricane losses. In 2005, hurricanes cost the

insurance industry about \$46 billion in losses countrywide, the worst season for losses on record. The only one to hit Texas, Hurricane Rita, caused an estimated \$2.6 billion in insurance losses in the state. The 2005 Atlantic hurricane season was a record year in terms of named storms, 28 in all. Some hurricane experts are predicting that the current cycle of very active Atlantic hurricanes will continue for several years. The Texas Windstorm Insurance Association (TWIA) was created in 1971 in response to Hurricane Celia. TWIA provides windstorm and hail coverage for property owners in areas of the state where it is not readily available. TWIA consists of all property insurers authorized to write property insurance in Texas and administers day-to-day operations, including policy issuance and claims processing. TWIA is authorized to provide wind and hail insurance in the 14 counties along the Texas coast and in other areas designated as “catastrophe areas” by the Commissioner of Insurance. The term “catastrophe area” is defined in the *Texas Insurance Code* to include, among other things, areas where “windstorm and hail insurance is not reasonably available to a substantial number of owners of insurable property.” To date, outside of the 14 coastal counties, only small portions of Harris County have been designated as “catastrophe areas.” In the event TWIA is unable to cover losses from premiums and other revenues (currently only premiums and investment income, which amounts to over \$200 million per year), the following funding mechanism currently applies (in order):

- \$100 million assessed to member insurers;
- Catastrophe Reserve Trust Fund (CRTF) (currently about \$380 million) and reinsurance (about \$1.0 billion);
- \$200 million assessed to member insurers; and
- Unlimited assessment to member insurers reimbursable from premium tax credits over five or more successive years (after the approximately \$1.7 billion provided from the above sources).

TWIA’s exposure has been growing rapidly in recent years. In 2001, TWIA had 68,758 policies. As of June 30, 2007, TWIA insured 181,826 policies with direct liability in excess of \$49 billion with more than half (\$23 billion) of its liability concentrated in Galveston and Brazoria Counties. It is estimated that TWIA’s exposure, including miscellaneous coverage such as business interruption, will exceed \$65 billion by the end of 2007.

This growth increases the possible losses arising out of a given storm, placing state revenues at an ever-increasing risk. The current catastrophe funding capacity available to cover losses before the reimbursable tax credits are triggered (approximately \$1.7 billion) is estimated to cover the probable TWIA losses from a storm that would be expected to occur about every 30-40 years (a 2.5 percent to 3 percent chance of striking in any given year). Texas’ general revenue stream would be at significant risk should a more severe storm strike the coast. For example, TWIA losses from a so-called 100-year storm (one having a 1 percent chance of striking in any given year) are estimated at about \$3.2 billion, placing about \$1.5 billion of state revenues at risk; a 250-year storm (one with a 0.4 percent chance of striking in any given year) would produce about \$4.9 billion in losses for TWIA, jeopardizing about \$3.2 billion in state revenues.

Several topics related to wind and hail insurance, whether combined or evaluated separately, impact the availability and affordability of coverage.

Designated Catastrophe Areas

In the spring of 2006, the agency began receiving numerous inquiries and feedback from various members of the public, including representatives of the Texas Apartment Association, the Independent Insurance Agents of Texas and the Texas Association of School Boards, regarding unavailable and unaffordable wind and hail coverage in counties along the coast (first-tier counties) and those bordering them (second-tier counties, particularly Harris County). The majority of affected properties were condominiums, town homes, apartments and schools located in the second-tier counties. The market

restrictions and price increases generated requests to expand the areas in which TWIA can provide wind and hail coverage so that property owners may obtain coverage through TWIA. The standard for “catastrophe area” as currently defined in the code requires that insurance not be reasonably available to a *substantial number* of owners of insurable property. Even though it is clear that some property owners are having difficulty obtaining wind and hail insurance, the number of property owners may not be sufficient to meet the *substantial number* standard for TDI to expand the catastrophe area.

Windstorm Mitigation

The Windstorm Inspection Program began in 1988 and is administered by TDI. The program is responsible for determining building code compliance for the purpose of obtaining and maintaining windstorm and hail insurance coverage through TWIA. Until May of 2006, a homeowner would have to obtain a Certificate of Compliance (WPI-8) in order to obtain or maintain windstorm and hail insurance through TWIA. Now, in lieu of a WPI-8, and for a specified period of time, a homeowner can obtain insurance by paying a premium surcharge based on meeting specific criteria. Currently, all Texas municipalities are required to adopt the International Residential Code (IRC) and International Building Code (IBC); however, the agency has adopted stronger wind-resistant construction criteria beyond what is required under the IRC and IBC. Loss mitigation is an important element of preparing for future windstorms. Even though municipalities are required to adopt the IRC and IBC, currently no provisions are in place to ensure that municipalities have adopted or are inspecting or enforcing these codes.

Reinsurance

The frequency and severity of recent hurricane losses and future predictions of a continuing pattern has had a dramatic impact on reinsurance capacity and pricing which in turn has impacted the affordability and availability of primary insurance along the Texas coast. In 2006, many insurers, including TWIA, indicated they were unable to purchase the amount of reinsurance desired and that the cost for the available reinsurance was substantially more than the prior year. Reinsurance prices increased between 100 percent and 200 percent from 2005 to 2006. The cost of reinsurance is passed on to policyholders. If an insurer is unable to purchase the desired reinsurance, the insurer itself will have to bear (or insure) the losses that have historically been reinsured or will have to restrict its writings. The 2006 estimated cost for TWIA to purchase the same amount of reinsurance that was purchased in 2005 was almost double, or approximately \$38 million dollars higher. TWIA ultimately purchased a lower level of reinsurance in 2006 at a cost that was approximately \$23 million higher than the 2005 reinsurance program. Additionally, participation in the 2006 reinsurance program was insufficient for TWIA to obtain the full amount of reinsurance it was seeking. The 2007 estimated cost for TWIA to purchase \$1 billion in reinsurance is approximately \$151 million.

Reinsurance availability and price are influenced by:

- changes in hurricane models that have increased probable loss figures used by primary insurers and reinsurers;
- rating agencies becoming more conservative in evaluation of insurers’ catastrophe management plans;
- forecasts of increased hurricane activity and strength;
- reinsurer needs to rebuild capital; and
- a dysfunctional market largely due to the absence of normal competitive pressure to contain costs.

Voluntary Market

The most immediate after-effect of the 2005 hurricane season has been the impact on affordability and availability of property insurance in the coastal counties. Several major insurers have filed for rate increases. In addition, several insurers have informed TDI that they will be restricting wind coverage along the coast by excluding it from their policies and in some limited instances, not writing coastal

business altogether. Moreover, some assert that the inadequate funding structure and rates of TWIA have increased the likelihood of insurer assessments and thereby stifled the full development of a competitive statewide homeowners market as insurers weigh expanding their market share against the potential for future assessments.

In response to an insurance availability problem sparked in part by mold claims and water damage claims, the Texas FAIR Plan Association (TFPA) was established in 2002 to provide residential property insurance statewide. The TFPA consists of all property insurers authorized to write business in Texas, and those members participate in any assessments due to shortfalls in revenue. In addition to relying on member insurer assessments and reinsurance to fund excess losses, the TFPA is also statutorily authorized to issue public securities as a method to raise funds for losses. The amount of public securities that may currently be issued to fund TFPA losses cannot exceed \$75 million. TFPA member insurers are expressly authorized to make a premium surcharge on each policy they issue to recoup assessments, including service fees to pay the debt service on public securities. In November 2004, the TFPA policy count peaked at more than 134,000 policies representing \$24 billion in liability. As of June 30, 2007, the policy count was approximately 89,000 with \$14.9 billion in liability.

While the TFPA policy count and liability has declined significantly in the last two years, the problem now is its concentration of risks in areas that are vulnerable to hurricane losses, primarily in Harris and Fort Bend Counties. These and the other coastal counties account for more than half of TFPA's policies and liability. Due to increased reinsurance costs and predictions of increased hurricane activity, voluntary insurers have restricted underwriting along the Texas coast, resulting in the likelihood that more and more of these coastal risks will have to obtain insurance through TFPA. TWIA and TFPA are similar in terms of their vulnerability to a catastrophic loss from a hurricane and how shortfalls in funding impact the policyholders of the state. Therefore, both TWIA and TFPA should be the subject of discussions on how funding should be changed and how funding shortfalls are to be funded and who should pay for it. Additionally, discussions should also take into account the related purposes of TFPA and TWIA.

Recent Legislation

The 80th Legislature considered House Bill (HB) 2960 and Senate Bill (SB) 1155; these proposed bills were not companion bills, but were merged by the Senate and further discussed under HB 2960. The proposed legislation initially included, in some form, the concepts embodied by the recommendations proposed in TDI's *Biennial Report to the 80th Texas Legislature*. These recommendations are discussed in Item C below.

Additionally, the 80th Legislature considered HB 698, SB 898 and SB 1027, which all considered extending coverage through TFPA.

Title Insurance

Texas is one of only three states in which the Commissioner of Insurance promulgates title insurance rates, policy forms and endorsements, and the associated rules. All title underwriters and agents must use these rates and forms. This regulatory system contrasts with other lines of insurance, where greater rate freedom is permitted. For instance, at present, rates for virtually all property and casualty coverage in Texas, other than title, are subject to a file-and-use regulatory system.

There are dynamics to remember in title insurance rates. Under a promulgated rate system, insurers must report their expenditures for purposes of setting rates. It is in the market's best interest that expenditures are reported fairly, so that the actual price reflects actual costs. Insurers do not have any disincentives to report as high a cost as possible, because under a promulgated rate system they will not be harmed by price competition if their expenditures are too high.

Under the current system, rates are set at biennial rate and rule hearings. These are long and costly processes that may produce results that are not indicative of the current market once the final rate and rules are adopted. Given that the use of the resulting rates is mandatory, consumers do not have the ability to shop for coverage on the basis of cost as they do in other states or for other lines of insurance.

The title insurance marketplace has no price competition, and very little direct competition for consumer business, except on service. This lack of competition results in inefficiencies in the marketplace. For instance, instead of competing directly for consumers' dollars, many, though not all, agents compete by expending their marketing efforts on real estate agents, lenders, builders, and other "producers" who can direct the property buyers to a particular title agency. Moreover, the current system allows builders, producers, lenders, and others to own agencies dedicated to particular real estate developments. While such integration may be efficient on its face, additional costs may find their way into the rate structure with no effective level of competition to keep those costs in check.

Some small, rural and/or independent agents contend that large, metropolitan, and/or underwriter-owned agents put them at a competitive disadvantage by their arrangements with large property developers that control the title transaction and pay the smaller agents only a fraction of the overall premiums. If a rural agent, who may be the only agent in a particular county, is put out of business, the local population loses the local title expertise needed to evaluate and minimize local title issues.

Any change in the system for regulating title insurance must be done gradually and initially limited to certain geographic areas. Possible outcomes of price competition include increased efficiencies and slightly lower prices for consumers. Conversely, an outcome may be the emergence of title agency services that are substandard because value is driven down by falling prices. Time and limited change are essential to initiating reform in order to maintain the balance of a properly priced market and high-value title agency services.

C2. Possible Solutions and Impact.

Increase the availability and affordability of health insurance as well as wind and hail insurance coverage.

Health Insurance

To address concerns with the affordability and availability of health insurance coverage, TDI suggests that the Legislature consider providing the agency with the strategic direction and authority to create mechanisms to promote and encourage more Texans to purchase health insurance.

While TDI's primary purpose is to regulate and protect the solvency of the insurance industry, the agency is well situated to examine creative ways to leverage public and private resources in a way that would expand health insurance coverage. While much of this work is currently performed on an ad hoc basis, pulling from multiple areas within TDI, explicit authority to promote health insurance coverage would allow the agency to centralize and dedicate resources for the purpose of developing and implementing strategies to ensure that more Texans have information to purchase health insurance coverage.

Possible approaches for accomplishing this goal include a governmental or quasi-public approach, private enterprise incentives or a combination of the various approaches. One governmental-based approach to resolving this issue is discussed below.

The Legislature could create a new division within TDI that assists small business owners and, on a more limited basis, individuals who are looking for health insurance. Activities could be focused exclusively

on the small employer market or could be designed to serve both individuals and small businesses looking for coverage. The division's key functions would be to:

- educate and inform the public of the importance and value of health insurance and the dichotomy between personal health care responsibility and insurance protection;
- assist consumers with technical information in order to understand the insurance products that are available to them;
- assist consumers with information on the benefits of working with a trusted agent and how best to communicate with an agent; and
- promote and facilitate the development and availability of new affordable options, such as the Houston pilot project described above.

Creating this division would allow the agency to examine policy best practices and successes from other states and modify them to meet the needs of Texans. Implementation could occur on a pilot or statewide basis. The division could develop a tax tool kit to better inform small employers of the tax benefits of purchasing health insurance for their employees.

The division could also work with appropriate stakeholders on an ongoing basis to develop public and private strategies to increase the number of insured Texans. It could also encourage and facilitate development of community-based health plans for the uninsured, and TDI staff would be available to provide technical assistance and support.

Wind and Hail Insurance

To address concerns with the affordability and availability of wind and hail insurance, TDI proposes amending the provisions that allow the Commissioner to designate additional catastrophe areas to provide flexibility for the Commissioner to expand TWIA eligibility by classification or type of risk. For example if certain types of property owners are having difficulty obtaining coverage through the voluntary market, the Commissioner could expand eligibility on a limited basis to include certain classifications or types of risk, such as public buildings or habitable risks.

This proposal would expand the areas in which TWIA can provide wind and hail coverage so that property owners may obtain coverage through TWIA. However, once an area is designated as a "catastrophe area," all insurable property located in the area is eligible for coverage through TWIA. As a result, the State's general revenue may be put at much greater risk in order to assist a segment of the market in obtaining wind and hail insurance. Therefore, this proposal would need to accompany additional changes as discussed below, including legislation that:

- requires local jurisdictions, including counties, to adopt and enforce windstorm building code standards in coastal counties that have a significant hurricane exposure;
- requires municipalities to develop windstorm inspection programs, including structural plan review by design professionals, windstorm inspections and certification as part of their current inspection programs to ensure compliance with the wind resistant provisions of the code; and
- provides for the long-term phase-in of any changes to allow for public education and compliance.

These proposals may encourage insurers to write more wind and hail coverage in the coastal counties, thus lessening the exposure for TWIA. It would also ensure that if some of these properties are eventually insured by TWIA, they will be in compliance with the windstorm building code standards and would not require expensive inspections after the structures have been completed nor would there be a need to pay premium surcharges in lieu of aWPI-8.

TDI also suggests establishing a windstorm reinsurance facility (Facility) similar to the Florida Hurricane

Catastrophe Fund to provide a stable and ongoing source of reinsurance to insurers, TWIA, and the Texas FAIR Plan Association (TFPA) for a portion of the hurricane losses incurred by those entities. The purpose of a Facility would be to protect and advance the state's interest in maintaining insurance capacity in Texas and to improve the availability and affordability of residential property insurance in Texas by providing reimbursements to insurers, TWIA and TFPA for a portion of their catastrophic hurricane losses at a reasonable cost. Providing a stable and ongoing source of reinsurance for TWIA and the TFPA will enable these associations to obtain a greater level of protection against catastrophic hurricane losses which, in turn, may help minimize policyholder surcharges or premium tax credits. Options to consider in creating the Facility to help achieve the intended purpose of the Facility are:

- requiring all licensed insurers in Texas, including TWIA and TFPA, that write certain policies to purchase reinsurance from the Facility;
- providing the Facility pre-event and post-event bonding authority; and
- providing the Facility assessment authority to service the bonds or to pay for losses to the Facility.

To promote voluntary entry into the property market, statutory revisions may include:

- providing for the phase-in of potential TWIA assessments over several years for new property insurance writers; and
- creating a rate filing “safe harbor” that provides that a coastal rate change not exceeding five percent in a 12-month period following a storm is presumed reasonable. After the third consecutive increase, any future rate change would be governed by current law, i.e., subject to disapproval by TDI. This should be conditioned on an insurer continuing to directly insure for wind loss.

While these changes would promote voluntary entry into the property market, it should be noted that the outcome may be only incremental increases in capacity, or may merely slow the withdrawal of insurers from the coast after a major storm or storms.

Finally, an important issue to consider is providing adequate and consistent funding mechanisms to both TWIA and the TFPA to allow for growth, especially with regard to growth in areas highly subject to catastrophic loss.

Commence a pilot study for alternative rating structures for title insurance.

To address concerns with the rating structure of the title industry, the agency proposes that the Legislature should consider allowing the Commissioner of Insurance to undertake a comprehensive study of rating practices related to the title industry. Additionally, the Commissioner should be given the flexibility to apply study results and analyses to develop alternative rating structures that introduce some measure of price competition into the market.

Alternative rating structures could take on several forms, such as initially permitting the filing of independent rates on a prior-approval basis, followed by a file-and-use system over a longer period of time. Any alternative rating structures should have a delayed effective date to allow for any legislative changes.

As previously stated, because of the complexity of this reform, any change in law should be constructed around gradual and incremental change. Several considerations to implementing an alternative rating structure on an incremental basis follow. For example, should a rating structure permit rating distinctions based on geographic region or the size of the underwriter or agency? Rating distinctions could include

variations in the monetary split between underwriters and agents to account for the cost-shifting cited by many rural agents. Measures should be taken to prevent predatory pricing that may adversely impact title agencies and, therefore, the quality of title transactions in certain counties. Further, consideration should be given to whether title insurance premium rates should be all-inclusive, the scope of any changes, and the amount of time over which any changes are implemented.

These changes may result in some downward pressure on rates. Further, it could curb marketing and other expense practices that presently place some upward pressure in costs that would otherwise be kept at a minimum in a more competitive environment.

A3. Brief Description of Policy Issue.

Should TDI have additional policy flexibility to firmly and fairly regulate the insurance marketplace?

B3. Discussion.

In the course of monitoring and regulating the Texas insurance market, TDI at times is faced with procedural impediments that can impact the effective regulation of the insurance industry. As new developments and areas of regulatory concern are identified, the agency examines and analyzes the situation to determine the potential impact on the insurance industry and Texas consumers. Should this examination result in the recognition that modifications to the regulatory structure are necessary, TDI makes a recommendation during the next legislative session. In the event the requested legislation is enacted by the Legislature, the agency then develops and executes administrative rules as necessary. The accumulated time from the identification of a problem to the enactment of the necessary administrative rules can be several years. This lengthy process can ultimately be costly and harmful to Texas consumers.

The following discussion examines areas where additional policy flexibility could allow TDI to more firmly and fairly regulate a dynamic insurance market, and to do so in a timely manner that does not cause further harm to consumers. The areas of discussion include data mining and pattern recognition, the Texas Windstorm Insurance Association, maintenance taxes, and the Texas Health Reinsurance System.

Data Mining and Pattern Recognition

An increasing trend in insurance rating and underwriting is the combined use of data mining and pattern recognition technologies. These tools are used by insurers to identify new rating and underwriting criteria used to differentiate among policyholders both in terms of what they pay for coverage and their acceptability for coverage. The continual development and deployment of this new technology platform could far exceed anything in practice today. This discussion therefore is in anticipation of something that could develop over several years. In the insurance context, data mining and pattern recognition is difficult to define. For discussion purposes, the combined use of the two technologies can be characterized as a means of identifying relationships among variables that are used to predict differences in the expected losses of insureds. These differences allow insurers to create new and more refined risk classifications. Insurers currently deploy similar technology to detect fraudulent claims, identify subrogation opportunities and to improve marketing effectiveness. What lies ahead, however, poses some significant policy issues. For example, consider the use of financial information beyond what is captured in a credit report, such as rent payments, or the amount of purchasing activity at a hardware store. If a correlation is drawn indicating a pattern between either one of these variables and the potential for claims, this gives the market another tool for pricing or risk classification.

The use of this tool can have one of two outcomes. It has been argued by groups associated with its development that insurers will show greater willingness to enter previously underserved markets, particularly in urban areas, since this technology will increase their confidence to accurately price and underwrite insureds that previously would have been rejected. Further, these groups argue that more individuals will have access to insurance from more companies at reasonable rates. Others argue that the use of this technology will have the opposite effect. If adopted by the majority of the market, exponentially more risk tiers are likely to emerge resulting in sharp or severe rate differentials among insureds at the ends of the pricing spectrum. This may effectively make insurance unavailable to many, perhaps requiring the creation of state-sponsored pools to provide basic required coverage. They argue further that a higher segmentation of the market will have the potential for disproportionate impact on

various socioeconomic groups. Moreover, as the number of rate tiers proliferates (hyper-tiering), the risk transfer mechanism begins to break down. Policyholders could be grouped with such refinement at a very individualized scale that there would be little risk transfer because losses are virtually predicted to a person, rather than a group of people within a given risk class. In theory, over several years, insurers will have the means to determine who will file a claim with a very high degree of confidence. If the larger market share insurers begin to use hyper-tiering at the same time, other companies will rush to a defensive market position in order to avoid being adversely selected against (i.e., protecting against insuring only the higher, more volatile risks). Whether and to what extent either one of these outcomes will be realized is unknown. However, as technology advances, there may be little time to react as the industry responds to a sudden change in the market.

The Legislature may need to consider both the positive and negative aspects of technological development when formulating policy affecting the insurance market. For example, data mining technology may offer positive solutions for underserved markets where risks are diverse. This technology may enable some niche writers to enter those markets and offer better products at better prices. Still, the transfer of risk over the long-term will be diminished as larger carriers adopt new technologies and hyper-tiering becomes the norm.

Proposed SB 828, 80th Legislature, Regular Session reflected proposals made by TDI to mitigate sudden and/or harmful market changes resulting from the use of data mining and pattern recognition.

Texas Windstorm Insurance Association

As noted above, the Texas Windstorm Insurance Association (TWIA) was created in 1971 to provide windstorm and hail coverage for property owners in areas of the state where it is not readily available.

TWIA's exposure has been growing rapidly in recent years. It is estimated that TWIA's exposure, including miscellaneous coverage such as business interruption, will exceed \$65 billion by the end of 2007. This growth increases the possible losses arising out of a given storm, placing state revenues at an ever-increasing risk. For example, TWIA losses from a so-called 100-year storm (one having a 1 percent chance of striking in any given year) are estimated at about \$3.2 billion, placing about \$1.5 billion of state revenues at risk; a 250-year storm (one with a 0.4 percent chance of striking in any given year) would produce about \$4.9 billion in losses for TWIA, jeopardizing about \$3.2 billion in state revenues.

The procedures used in calculating TWIA rates are set out in great detail in the statute (*Texas Insurance Code*, Chapter 2210). For example, rates must be uniform throughout the first-tier counties, certain combinations of TWIA and non-TWIA data must be used to determine the catastrophe and non-catastrophe elements of the rates and certain numbers of years of experience must be used. This differs from other insurance pools in the state that have much greater flexibility in the actuarial procedures used and where greater freedom to adapt the rate structure for changing conditions.

The 80th Legislature considered HB 2960 and SB 1155; these proposed bills were not companion bills, but were merged by the Senate and further discussed under HB 2960. The proposed legislation initially included, in some form, all recommendations proposed to the Legislature in TDI's *Biennial Report to the 80th Texas Legislature*, including discussions to add more rating flexibility. HB 2960 was heavily discussed by the 80th Legislature and supported by TDI and many legislative members. However, the proposed legislation ultimately failed during the last days of the session.

Maintenance Taxes/Maintenance Fee

Texas Insurance Code, Chapters 251 and Chapter 256 and *Texas Labor Code*, Chapters 403, 405, and 407A govern the assessment of maintenance taxes for several lines of property and casualty insurance. *Texas Insurance Code*, Chapter 271 governs the assessment of the title insurance maintenance fee. The

chapters direct the Commissioner to annually set the rates imposed each year to produce the amount the Commissioner determines is necessary to pay the expenses during the succeeding year of regulating the specified line of insurance. Each chapter specifies the premiums/fees/revenues that are subject to taxation. The Texas Comptroller of Public Accounts collects the maintenance tax based on amounts provided by the companies in the National Association of Insurance Commissioners (NAIC) annual statements and other specified amounts provided by the entities being assessed. There are several issues related to setting multiple rates which vary for each line of insurance.

Insurance companies report premium dollars on the NAIC annual statement based on guidelines provided by NAIC. Certain product lines offered by the industry are difficult to categorize from a reporting perspective. The premium may be reported in a category that is inconsistent with the line of insurance tax base described in the *Texas Insurance Code* or is reported in a NAIC category that is not assessed a tax. For instance, several years ago there was a dispute as to whether mobile home insurance should be taxed as motor vehicle insurance or as home insurance (fire and allied lines under the statutes). The maintenance tax rates for motor vehicle insurance (*Texas Insurance Code*, Chapter 254) and home insurance (*Texas Insurance Code*, Chapter 252) are substantially different and therefore the categorization significantly impacts the tax for the company. The amount of tax assessed would depend on the NAIC category under which the company reports the mobile home insurance on the annual statement.

Insurance companies report premiums for certain product lines in an “Other” category on the NAIC annual statements. Since this category contains several different types of product lines, the associated premiums are not assessed maintenance taxes.

Each maintenance tax statute has a cap on the percentage maintenance tax rate. On occasion, the amount of maintenance taxes that can be generated is not adequate to fund that year’s costs for a particular line of insurance. Methodologies have been developed to allocate the unfunded need to other lines of insurance. This is necessary so that TDI funding needs are met.

Texas Health Reinsurance System

Texas Insurance Code, Subchapter G of Chapter 1501 establishes the Texas Health Reinsurance System (THRS), which is a mechanism for small employer carriers to reinsure risks covered under small employer health benefit plans. THRS operates like a reinsurer and spreads its aggregate loss among its member carriers. The system was initially established to address the concern that one small employer carrier could suffer financial problems if the carrier happened to insure a disproportionate share of sick persons since small employer health benefit plans are subject to guaranteed issue and renewability. A related initial objective was to ensure that reinsurance was available to small employer carriers, thereby decreasing the risk of financial harm and encouraging participation in the small employer marketplace. A small employer carrier may reinsure a small employer group, an eligible employee of a small employer or the employee’s dependent. A reinsured carrier’s liability to any insured individual may not exceed a maximum of \$10,000 in any calendar year.

Each small employer carrier must elect to participate in the system as a reinsured carrier or seek approval to become a risk assuming carrier. A carrier seeking to be a risk assuming carrier must be financially able to support the assumption of risk and meet other conditions required by statute. THRS’s nine member board of directors establishes the methodology for determining the premium to be charged small employer carriers for reinsuring small employer groups and individuals.

If the THRS incurs a net loss in a calendar year, the loss is recouped by assessments on reinsured carriers. A reinsured carrier’s assessment is in proportion to the carrier’s earned premiums from small employer health benefit plans issued in Texas.

As of late 2006, approximately 60 carriers write insurance for small employers in Texas. In 2007, only 15 insurers are “participating insurers” that cede risks to THRS. Of the 15 insurers, fewer cede lives to the system. THRS currently covers only 50 lives from nine insurers.

Over the years, the number of carriers participating in the system has steadily declined, mostly because carriers either withdraw from the small employer health plan market or become risk assuming carriers. However, over the same time period the cost of claims associated with the lives ceded to the system has for the most part increased.

Under current law, a reinsured carrier may not cede additional eligible lives to THRS during a calendar year if the assessment amount payable for the previous calendar year is greater than or equal to five percent of the total premiums earned in that calendar year from all small employer health benefit plans delivered or issued for delivery by reinsured carriers in this state. Over the past five years, the system’s experience has twice come close to reaching this trigger.

The current premium base in THRS is approximately \$86 million – a fraction of the overall small employer market. In its current form, the system is not credible because of the small premium base and the few participating insurers. As is, the system is not large enough to meet its purpose of spreading the risk over a large base, and does not serve Texans to its full potential.

C3. Possible Solutions and Impact.

Engage the agency in greater policymaking authority to address technological advances that impact the type of products offered, the classifying of individual risks, and the rating of insurance products.

TDI offers the following proposed solutions to more fairly and firmly regulate the insurance market.

Provide the agency and Commissioner of Insurance with authority to address the use of technological advances and pattern recognition methods that impact the type of available products, the classifying of individual risks, and the rating of insurance products. Specifically, the Legislature should consider:

- amending rate and underwriting provisions in the *Texas Insurance Code* to allow the Commissioner of Insurance the authority to define and require disclosure to TDI of all rating and underwriting variables derived from data mining and pattern recognition processes prior to their use in rating, tiering or underwriting; and
- granting the Commissioner the authority to require moderation in the application of such variables over two or more renewal cycles.

These recommendations would allow the agency to identify possible expansions and refinements of classification criteria and their likely effects on Texas consumers and the marketplace, and to mitigate possible adverse impacts.

Additionally, the agency should have a greater ability to regulate based on market changes and market performance. The Commissioner of Insurance should be given the authority to require disclosure of rating practices and methodologies in addition to actuarial standards. The Commissioner of Insurance should also be able to apply different methods of regulation based on an insurer’s market performance or to different segments of the market; e.g. large insurers vs. small insurers, national insurers vs. regional insurers, or Texas-only insurers. This could help alleviate market affordability and/or availability problems for certain currently underserved groups, encourage the entry of insurers into new markets, and help alleviate any perceived regulatory burden.

Moderate insurance coverage costs through greater rating flexibility for the Texas Windstorm Insurance Association, restructuring of the maintenance tax and fee assessments, and reviewing the continued viability of the Texas Health Reinsurance System.

TWIA

The Legislature should consider amending the rate-setting requirements in Texas Insurance Code, Chapter 2210 to allow greater rating flexibility for TWIA. Options to consider, at least in part, include:

- allowing a file-and-use implementation of rate changes not exceeding 5 percent in any 12-month period and applying the current regulatory standards (approve, disapprove, modify) to greater rate changes;
- eliminating portions of the existing law that specify the precise experience that must be used to develop rates, permitting actuaries to use whatever data would be most appropriate in the specific circumstances;
- permitting the limited consideration of the results of hurricane models, perhaps in conjunction with actual historic experience in the development of TWIA's rates (e.g., allow 5 percent rate increase based on the average of the hurricane models every 24 months);
- permitting geographic variations in TWIA rates where such variations can be actuarially supported;
- allowing a supplemental premium charge that would go directly (100 percent) to the CRTF (the charge would not be subject to agent commissions, administrative charges, etc.); and
- providing for the tempering of rate changes arising from changes in ratemaking procedures so as to avoid rate shock by maintaining the current statutory 10 percent cap.

Implementation of the above would allow the agency greater flexibility to adapt the TWIA rate structure for changing conditions. This, in turn, could increase the affordability of wind and hail insurance through TWIA.

Maintenance Tax System

TDI also recommends an examination be conducted to consider streamlining and simplifying the maintenance tax system. Participants should include members from TDI, the Comptroller of Public Accounts-Insurance Tax, the insurance industry, and other appropriate parties. TDI should have the authority and flexibility to enact regulatory changes based on the results of the examination.

Texas Health Reinsurance System

Finally, the agency recommends the Commissioner be provided with flexibility and authority to modify the operations of the THRS to better meet the needs of the small employer market, and, alternatively, to order the dissolution of the system and suspension of its activities.

Flexibility to modify THRS operations would permit the Commissioner to utilize THRS as a tool to lower the cost of health insurance and provide stability for lower-premium products by relying in part on successful models from other states, thereby making better use of the THRS for Texans.

The foundation for an improved system already exists in Texas, even though it is not presently operating at-full potential or utility. System revitalization goals should be to:

- create an incentive to increase the number of carriers offering affordable health insurance to small employers.
 - Provide system protection against excessive losses to carriers that offer affordable health insurance products.

- Explore best practices from states with successful reinsurance systems.
 - Provide incentives to carriers to offer lower premiums.
- expand participation in the system among carriers in the small employer market to spread the risk across a larger population.
 - Explore strategies that have worked in other states and that will work within the private insurance marketplace in Texas.
 - Examine the benefits, feasibility, and pitfalls of mandating participation.
 - Create a structure that attracts carriers to participate.
- explore expanding system participation eligibility to carriers that serve the individual market.

Flexibility to order the dissolution of THRS and suspension of its activities would permit the Commissioner to take appropriate action if these efforts prove unsuccessful, or if the Commissioner determines that pursuit or attainment of system revitalization goals is impracticable.

A4. Brief Description of Policy Issue.

Should TDI's statutory organizational structure be modified to better support the agency's mission?

B4. Discussion.

The Texas Windstorm Insurance Association (TWIA) was established in 1971 by the Legislature to provide wind and hail coverage to residents and businesses in designated catastrophe areas along the Texas coast that are unable to obtain such coverage in the voluntary market. At its inception, TWIA insured a structure if the homeowner could show an existing residential property insurance policy, or if the structure was located in a municipality that had a building code. No additional inspection or certification process was required to obtain insurance under TWIA.

Following the devastation wrought in Galveston by Hurricane Alicia in 1983, the Legislature determined that building codes were not being enforced along the Texas Gulf Coast. Consequently, the windstorm inspection program under TDI began in 1988. Under this program, in order to be eligible for wind and hail coverage through TWIA, structures must be inspected and certified as compliant with windstorm building codes adopted by the Commissioner of Insurance. However, in lieu of being certified as compliant, and for a specified period of time, a homeowner can obtain insurance by paying a premium surcharge based on meeting specific criteria. Through four field offices, the Windstorm Inspections Section of TDI's Property & Casualty Program inspects and certifies property constructed, repaired or modified in the 14 coastal counties along the Gulf of Mexico and certain specified areas in Harris County. Pursuant to *Texas Insurance Code*, Sections 2210.251, 2210.254 and 2210.255, TDI may employ windstorm inspectors or may appoint Texas licensed professional engineers to conduct inspections of buildings and structures to determine compliance with windstorm building codes. The certification of structures is important to ensure compliance with the building specifications and standards set forth in the TWIA Plan of Operation before coastal property is declared eligible for wind and hail insurance coverage written through TWIA.

Since the windstorm inspection program began January 1, 1988, both TDI Windstorm Inspectors and Texas licensed professional engineers have been able to perform inspections and certifications for the purpose of obtaining wind and hail insurance coverage through the TWIA. In 1997, the Commissioner of Insurance adopted a Windstorm Building Code based on Engineer Design Standards (ASCE-7) which required the use of engineering plans and calculations. The adoption of the more stringent engineering based Windstorm Building Code resulted in an increase in the number of inspections and certifications performed by Texas licensed professional engineers. Consequently, beginning February 1, 1999, TDI began the formal process of appointing Texas licensed professional engineers as qualified inspectors to perform windstorm inspections. TDI adopted the appointment process to provide specific procedures that must be followed for the inspection and notification of compliance of a structure by a Texas licensed professional engineer. This process is designed to ensure that Texas licensed professional engineers appointed as qualified inspectors have the experience, education and skills necessary to design, inspect and certify structures for wind resistance in high wind areas. The appointment process is also designed to ensure that Texas consumers are adequately and fairly served by the engineers appointed as qualified inspectors.

In addition to inspecting and certifying structures as eligible for wind and hail insurance coverage through TWIA, the Inspections Division of the Property & Casualty Program provides building code development and enforcement, and assists in the adoption of building codes to ensure that construction and repairs are made to the building codes with the latest technology to mitigate losses due to wind. In conjunction with

the adoption of applicable building codes, the agency evaluates building products for application in the windstorm inspection program and publishes evaluation reports for posting on the Windstorm Inspections section of the agency website. TDI also performs oversight to ensure that the appointed inspectors are providing uniform and consistent inspections and to verify that the inspectors are properly certifying structures to the adopted building codes. This helps protect the exposure of TWIA and protects consumers by making sure that construction and repairs are performed to the adopted building codes.

At the time TDI began the windstorm inspection and certification process in 1988, TDI windstorm inspectors certified 92 percent of the structures applying for certification of compliance with windstorm building codes, while Texas licensed professional engineers inspected 8 percent of the structures. During the past eight years, this trend shifted and dramatically changed the services TDI provides. In FY 2006, TDI windstorm inspectors certified 18 percent of the structures applying for certification of compliance with windstorm building codes, while TDI-appointed licensed professional engineers inspected 82 percent of the structures. This shift can be attributed to the adoption of stricter building codes based on an engineer design standard requiring the use of engineering plans and calculations. While agency windstorm inspectors remain qualified to conduct inspections that do not require submittal of engineering analysis, the demand for this service has declined. With this change, TDI's focus moved from inspection and certification of structures to oversight of the appointed engineers. Consequently, TDI reduced the number of Windstorm Field Offices from seven to four and reduced the number of windstorm inspectors on staff from approximately 50 to 19, while continuing to service the 14 coastal counties along the Gulf of Mexico and certain specified areas in Harris County.

As a regulatory agency, TDI's primary mission is to regulate the marketplace firmly and fairly by enforcing and implementing the law. Although established by the Legislature and linked statutorily to TDI, TWIA also operates as an insurer under the regulatory authority of TDI. Through the windstorm inspection program, TDI has a direct impact on the policyholders and structures deemed eligible for insurance under TWIA. Additionally, the agency participates in the evaluation and adoption of building codes and building products required for insurance eligibility through TWIA. As a consequence, TDI processes are imbedded within an entity that TDI must also regulate. While TDI also oversees the statutorily created Fair Access to Insurance Requirements (FAIR) Plan Association and the Texas Medical Liability Insurance Underwriting Association (JUA), this involvement is limited to overseeing the Plan of Operation, manual rules, forms, rates and endorsements.

While most hurricane prone states have agencies involved in the adoption of statewide building codes and standards, Texas does not license contractors nor does it have an agency responsible for enforcing mandatory building codes for windstorm resistance. North Carolina, South Carolina and Florida specifically require plan review of structures and certification of inspectors, and are involved in various activities to mitigate damages as a result of high wind events. Florida also requires licensing of builders and roofers, which Texas does not. Other states are not as involved as Texas is in the inspection and certification processes for obtaining wind and hail coverage.

Additionally, as a state agency, TDI does not have the capability and flexibility to respond to market fluctuations affecting the need for additional services and/or funding. For example, following the tremendous extent of damage caused by Hurricane Rita in the Jefferson, Chambers and Galveston County areas, the agency was overwhelmed by requests for inspections as consumers sought to ensure compliance to windstorm building codes as they repaired damaged structures. Despite hiring several temporary inspectors, TDI was unable to meet the demand for inspections. TDI worked closely with TWIA to remedy the situation, and TWIA ultimately hired temporary qualified windstorm inspectors to assist the agency. TDI monitored the work of these inspectors to ensure code compliance; however, all expenses for these temporary staff were paid by TWIA.

C4. Possible Solutions and Impact.***Transfer the windstorm inspection function to the Texas Windstorm Insurance Association.***

Windstorm inspections and certifications of compliance to windstorm building codes are vital to mitigating potential wind and hail losses and are required for wind and hail insurance coverage through TWIA. In lieu of being certified as compliant, and for a specified period of time, a homeowner can obtain insurance by paying a premium surcharge based on meeting specific criteria. However, the agency recognizes that trends in the process to inspect and determine compliance with windstorm building codes has altered the role of TDI in this process. Additionally, TDI believes that functions such as the development of building codes and the evaluation of building products may be more appropriately handled by TWIA.

To address changes in the Windstorm Inspection Program, TDI proposes that the Legislature consider transferring the Windstorm Inspections and Engineering Services functions to TWIA to better support the agency's mission and regulatory authority.

With a statutory change, the windstorm inspection and certification activities could be transferred from TDI to TWIA. Not only would this change improve the effectiveness of the windstorm compliance program, it would also result in a budget reduction of \$1,833,280 due to the reduction in force of approximately 32 FTEs.

Having TWIA serve as both inspector and insurer, however, could create the perception of a conflict of interest. For that reason, TDI proposes retaining limited staff to provide oversight of TWIA and their operations. TDI functions would include, but not be limited to the following: auditing the inspection and certification process performed by TWIA; performing quality assurance inspections of TWIA field inspectors and Texas licensed engineers appointed or contracted by TWIA; and reviewing building code recommendations submitted by TWIA to the Commissioner.

TDI believes that this transfer of functions would be beneficial to the agency and ultimately Texas consumers for several reasons. This transfer would allow TDI to focus resources on the oversight of TWIA, thus protecting consumers, policyholders and the general revenue of the State of Texas. As a statutory association, TWIA has the capability and flexibility to provide additional funding to enhance the performance and operation of the inspection and certification program. These enhancements could include additional education and outreach, public awareness, and enforcement of standards. Additionally, TWIA is better able to respond immediately to dramatic fluctuations or consumer needs in response to a catastrophic event or in the event of multiple occurrences.

X. Other Contacts

A. Fill in the following chart with updated information on people with an interest in your agency, and be sure to include the most recent e-mail address.

Texas Department of Insurance Exhibit 15: Contacts INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions)	
Group or Association Name/ Contact Person	Address
Akin Gump Strauss Hauer & Feld LPP/ Tom Bond	300 West Sixth Street, Suite 2100 Austin, TX 78701
Alliance Insurance Agents of Texas Inc./ AnnMarie Bozick	1306-A West Anderson Lane Austin, TX 78757
American Insurance Association/ Fred Bosse, Vice President Ron Cobb, Counsel	500 West 13th Street Austin, TX 78701
Association of Fire and Casualty Companies of Texas/ Jay Thompson	701 Brazos, Suite 1500 Austin, TX 78701
Association of Insurance Compliance Professionals Frances Linker	P.O. Box 152180 Irving, TX 75015
Chartered Property Casualty Underwriters (CPCU) Society Mike Madden	720 Providence Road P.O. Box 3009 Malvern, PA 19355
CitiStreet Kirby King	P.O. Box 55223 Boston, MA 02205-5223
Consumers Union Reggie James	506 West 14th Street, Suite A Austin, TX 78701
Federation of Insurance Women of Texas/ Suzanne Butler, ACSR	P.O. Box 183 Conroe, TX 77305-0183
Fire Alarm Advisory Council/ Robert A. Kaczmarek, Chair, Firetron Inc.	10129 Stafford Centre Drive Stafford, TX 77477
Fire Equipment Distributors of Texas/ James Shelton, President	c/o M-Jacks Fire & Safety Equipment Company 538 Sandau Road San Antonio, TX 78216
Fire Extinguisher Advisory Council/ Debra Cox Koetter, Chair, Phoenix Fire Protection Service Co.	929 Fisher Street Houston, TX 77018
Fire Sprinkler Advisory Council/ Ron Coker, P.E., Chair, Coker Engineering LLC	1540 Keller Parkway, Suite 108 - MB 319 Keller, TX 76248
Gardere Wynne Sewell LLP/ Woody Pogue	3000 One American Center 600 Congress Avenue Austin, TX 78701-2978
Heath, Davis & McCalla, Attorneys at Law/ Will Davis	200 Perry-Brooks Building 720 Brazos Street Austin, TX 78701
HMO Solvency Surveillance Committee/ Robert Blevins, Chair	9440 Dartridge Drive Dallas, TX 75238
Independent Insurance Agents of Texas/ David Vandelinder, CPCU, AAI	P.O. Box 684487 Austin, TX 78768-4487

Group or Association Name/ Contact Person	Address
Insurance Consumer Affairs Exchange/ Nancy Brebner	P.O. Box 746 Lake Zurich, IL 60047
Life Office Management Association Inc.	2300 Windy Ridge Parkway Suite 600 Atlanta, GA 30339-8443
Long, Burner, Parks & DeLargy/ Burnie Burner	106 East Sixth Street, Suite 300 Austin, TX 78768-2212
Property & Casualty Insurers of America (PCIA)/ Joe Woods	701 Brazos Street, Suite 500 Austin, TX 78701
Risk & Insurance Management Society/ Sara Becker, CPCU, ARM-P, RF, AAM	www.centraltexas.rims.org
Sneed Vine & Perry/ Tom Rutledge	901 Congress Avenue Austin, TX 78701
Texas Advisory Council on Arson/ David Mitchell	c/o Insurance Council of Texas P.O. Box 15 Austin, TX 78767
Texas AFL-CIO/ Rick Levy	1106 Lavaca, Suite 200 Austin, TX 78701
Texas Alliance of Nonsubscribers/ Richard Evans	208 W. 14 th Street, Suite 204 Austin, TX 78701
Texas Association of Business/ Cathy DeWitt	1209 Nueces Street Austin, TX 78701
Texas Association of Health Plans/ Jared Wolfe	720 Brazos Street, Suite 1004 Austin, TX 78701
Texas Association of Life & Health Insurers/ Mike Pollard	720 Brazos Street, Suite 1006 Austin, TX 78701
Texas Association of Mutual Insurance Companies/ Benjamin D. Malik	P.O. Box 389 Yoakum, TX 77995
Texas Association of Responsible Nonsubscribers/ Steve Bent	807 Brazos Street, Suite 802 Austin, TX 78701
Texas Automobile Insurance Plan Association/ Terry Mack (State Farm)	Escalade Office Building A 4301 Westbank Drive, Suite 200 Austin, TX 78746
Texas Burglar & Fire Alarm Association/ Chip Bird, President	c/o Southwest Dispatch Center LP 254 E. Arapaho, Suite 180 Richardson, TX 75081
Texas Chapter Public Risk Management Association/ Alan W. Smith, CPCU, ARM	P.O. Box 4693 Austin, TX 78765
Texas Chiropractic Association/ Patte Kent	1122 Colorado, Suite 307 Austin, TX 78701
Texas Claims Association/ Debbie Thomas	P.O. Box 1272 Tomball, TX 77377
Texas Committee on Insurance Fraud/ Mark Hanna, Insurance Council of Texas	P.O. Box 15 Austin, TX 78767
Texas Fire Alarm Association/ Bob Kaczmarek, President	c/o FireTron 10129 Stafford Centre Drive Stafford, TX 77477
Texas Fire Marshal's Association/ Kurt Harris, President	City of Weatherford 122 South Alamo Weatherford, TX 66086
Texas Fire Sprinkler Contractors Association/ Carol Cain, Executive Director	P.O. Box 5186 Kingwood, TX 77325

INTEREST GROUPS, continued	
Group or Association Name/ Contact Person	Address
Texas Fireworks Association/ Joe Daughtry, President	c/o Jake's Fireworks 2565 N. Twin City Highway Nederland, TX 77627
Texas Group Self Insurance Association/ Pam Beachley	906 Rio Grande Street Austin, TX 78701
Texas Hospital Association/ Patricia Kolodzey	P.O. Box 15587 Austin, TX 78761
Texas Independent Insurance Adjusters Association/ Joe McCullough	1306-A West Anderson Lane Austin, TX 78757-1454
Texas Insurance Checking Office, Inc./ Terry Porter	P.O. Box 15 2801 South IH-35 Austin, TX 78767-0015
Texas Land Title Association/ Leslie Midgley, CAE	1717 West Sixth Street, Suite 120 Austin, TX 78703
Texas Life, Accident, Health & Hospital Services Insurance Guaranty Association/ Bart Boles	6504 Bridge Point Parkway, Suite 450 Austin TX 78730
Texas Medical Association/ Teresa Devine Michael Reed	401 W. 15th Street Austin, TX 78701
Texas Medical Liability Insurance Underwriting Association (Texas JUA)/ Deborah Samples, CPCU	Centennial Tower, Suite 160 505 E. Huntland Drive Austin, TX 78752
Texas Mutual Insurance Company/ Russell R. Oliver Terry Frakes Jo Betsy Norton	6210 East Highway 290 Austin, TX 78723
Texas Orthopedic Association/ Dr. Steve Norwood	401 W. 15th Street, Suite 820 Austin, TX 78701
Texas Property & Casualty Insurance Guaranty Association/ Marvin Kelly	9120 Burnet Road Austin, TX 78758
Texas Pyrotechnic Association	c/o American Fireworks Chester Davis, President 1315 Hwy 71W P. O. Box 64 Bastrop, TX 78602
Texas Self-Insurance Association/ Judy Roach	98 San Jacinto Boulevard, Suite 1600 Austin, TX 78701
Texas Surplus Lines Association/ Jean T. Patterson	P.O. Box 10288 Austin, TX 78766
Texas Title Insurance Guaranty Association/ Burnie Burner, General Counsel	515 Congress, Suite 1500 Austin TX 78701
Texas Warrant Company	3150 S. Congress, Suite 100 Austin, TX 78704
Texas Watch/ Alex Winslow	1300 Guadalupe, Suite 108 Austin, TX 78701
Thompson, Coe, Cousins, & Irons, L.L.P./ Jay Thompson	701 Brazos, Suite 1500 Austin Centre Austin, TX 78701
Workers' Compensation (WC) Health Care Networks	Contact information for TDI-certified WC networks at: http://www.tdi.state.tx.us/wc/wcnet/wcnetworks.html
Workers' Compensation Research Institute (WCRI)/ Rick Victor	955 Massachusetts Avenue Cambridge, MA 02139

INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with your agency)	
Group or Association Name/ Contact Person	Address
America's Health Insurance Plans (AHIP)/ Rod Turner	601 Pennsylvania Avenue NW, Suite 500 Washington, DC 20004
American Academy of Actuaries/ David Sandberg	1100 Seventeenth Street NW, Seventh Floor Washington, DC 20036
American Council of Life Insurers/ Frank Keating; Brenda Nation (TX)	101 Constitution Avenue NW Washington, DC 20001-2133
American Red Cross of Central Texas/ Worth Haggerton	2218 Pershing Drive Austin, TX 78723
Coalition Against Insurance Fraud/ Howard Goldblatt	1012 14 th Street NW, Suite 200 Washington, DC 20005
Dallas County District Attorney's Office/ Dick Zadina	Frank Crowley Courts Building 133 N. Industrial Boulevard, LB 19 Dallas, TX 75207-4399
Data Center Services Advisory Council, Information Resource Managers working with the Department of Information Resources	c/o Department of Information Resources 300 West 15 th Street, Suite 1300 P.O. Box 13564 Austin, TX 78711-3564
Fort Worth Police Department, Auto Theft Unit/ Cindi O'Neil, Detective	350 W. Belknap Street Ft. Worth, TX 76101
Independent Insurance Agents of Texas/ Lee Loftis	1115 San Jacinto, Suite 100 Austin, TX 78701
Information Systems Audit and Control Association. National Contact: Megan Moritz Local Chapter Contact: Ron Franke	http://www.isaca.org http://www.isacaAustin.org
Institute of Internal Auditors/ Bonnie Ulmer	http://www.theiia.org/
Insurance Council of Texas/ Rick Gentry	2801 South IH-35 Austin, TX 78741
Insurance Services Office/Ken Hill	2828 E. Trinity Mills Road, #315 Carrollton, TX 75006
International Association of Insurance Supervisors, Executive Committee/ Michel Flamee, Chair Walter Bell, Vice Chair	124 Northern Avenue Gardiner, ME 04345
International Association of Insurance Supervisors, Secretariat/ Yoshihiro Kawai, Secretary General	c/o Bank for International Settlements CH-4002 Basel Switzerland
National Association of Insurance Commissioners (NAIC)/ Brett Palmer	NAIC Government Relations Office 444 North Capitol Street NW, Suite 701 Washington, DC 20001
NAIC/ Walter Bell, President Cathy Weatherford, Executive Vice President	2301 McGee Street, Suite 800 Kansas City, MO 74108-2262
National Association of Mutual Insurance Companies/ R. Larry Baile, CAE	3611 Vincennes Road Indianapolis, IN 46268
National Association of Insurance Women, Region VI/ Dolly Paden-Rea, CPIW, DAE	www.naiw.org

INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS, continued	
Group or Association Name/ Contact Person	Address
National Conference of Insurance Legislators Texas Legislator Members: Representative Craig Eiland Representative Larry Taylor	385 Jordan Road Troy, NY 12180 P.O. Box 2910 Austin TX 78768
National Conference of Insurance Guaranty Funds/ Roger H. Schmelzer	10 West Market Street, Suite 1190 Indianapolis, IN 46204
National Council on Compensation Companies/ Richard Saltzman Lori Lovgren	901 Peninsula Corporate Circle Boca Raton, FL 33487
National Flood Insurance Program/ Diana Herrera	15835 Park Ten Place, Suite 108 Houston, TX 77084
National Health Care Anti-Fraud Association/Michael J. Costello	1275 K Street NW, Suite 1000 Washington, DC 20005-4006
National Insurance Crime Bureau/ Fred Lohmann	320 Decker Drive, Suite 100 Irving, TX 75062
National Insurance Crime Bureau/ Judy Fitzgerald	10330 S. Roberts Rd. Palos Hills, IL 60465
National Insurance Producer Registry	2301 McGee Street Suite 800 Kansas City, MO 64108-2662
National Organization of Life and Health Insurance Guaranty Associations/ Peter Gallanis	13873 Park Center Road Herndon, VA 20171
North Texas Auto Theft Task Force/ Tom Reilly	Frank Crowley Courts Building 133 N. Industrial Boulevard, LB-31 Dallas, TX 75207-4313
Orange County District Attorney's Office/ Krispen Choate, Assistant District Attorney	801 Division Street Orange, TX 77630
Property Casualty Insurers Association of America/ Joe Woods	701 Brazos, Suite 500 Austin, TX 78701
Regional Counter Drug Training Academy/ Terri McWilliams	219 Fuller Road Meridian, MS 39309-5020
Regional Organized Crime Information Center/ Don K. Grote	545 Marriott Drive, Suite 850 Nashville, TN 37214-5019
Society of Financial Examiners	174 Grace Boulevard Altamonte Springs, FL 32714
Southwestern Insurance Information Service/ Jerry F. Johns	8303 N. MoPac Expressway, Suite B-231 Austin, TX 78759
State Agency Coordinating Committee (SACC)/ Various subcommittees	http://www.tx.net/sacc dir.state.tx.us/sacc
Surplus Lines Stamping Office/ Phil Ballinger	805 Las Cimas Parkway, Suite 150 Austin, TX 78746
Technical Advisory Committee on Claims Processing/Members appointed by Commissioner of Insurance	Contact information at: www.tdi.state.tx.us/consumer/taccp.html
Texas Association of State Systems for Computing and Communications (TASSCC)	TASSCC, Inc. P.O. Box 1622 Austin, TX 78768
Texas Association of Health Plans/ Jared Wolfe	720 Brazos Street, Suite 1004 Austin, TX 78701
Texas Association of Insurance And Financial Advisors/ Des M. Taylor, JD	1920 South IH-35 Austin, TX 78704

INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS, continued	
Group or Association Name/ Contact Person	Address
Texas Auto Insurance Plan Association/ Margaret Alsobrook	4301 Westbank Drive, Suite 200 Escalade Building A Austin, TX 78746-4400
Texas Auto Theft Prevention Authority/ Susan Sampson	4000 Jackson Avenue Austin, TX 78731
Texas FAIR Plan Association/ Randy Wipf	5700 S. MoPac Expressway Building C, Suite 300 Austin, TX 78749
Texas Insurance Checking Office/ Terry Porter	P.O. Box 15 Austin, TX 78767-0015
Texas Land Title Association/ Leslie Midgley	1717 West 6 th Street, Suite 120 Austin, TX 78703
Texas Leaders Round Table/ Des M. Taylor, JD	1920 South IH-35 Austin, TX 78704
Texas Legal Services Center/ Bruce Bower, HICAP contract	Texas Legal Services Center 815 Brazos, Suite 1100 Austin, TX 78701
Texas Medical Liability Insurance Underwriting Association/ Deborah Samples	505 E. Huntland Drive, Suite 180 Austin, TX 78752
Texas State Association of Firefighters/ Mike Higgins	627 Radam Lane Austin, TX 78745
Texas Title Insurance Guaranty Association/ Burnie Burner	c/o Long Burner Parks & DeLargy 106 East 6 th Street, Suite 300 Austin, TX 78701
Texas Treasury Safekeeping Trust Company/ Oscar Ramirez	111 E. 17 th Street P.O. Box 13528 Austin, TX 78711
Texas Windstorm Insurance Association/ Jim Oliver	5700 S. MoPac Expressway Building C, Suite 300 Austin, TX 78749
Travis County District Attorney's Office/ Susan Oswalt	314 W. 11 th Street, #300 Austin, TX 78701
University of North Texas Insurance Club/ Brenda P. Wells, Ph.D., CPCU	P.O. Box 13677 Denton, TX 76203-6677
U.S. Attorney/ Belinda Beek, Assistant US Attorney, Houston	P.O. Box 61129 Houston, TX 77208
U.S. Dept. of Labor/ Investigator Mark James	525 S. Griffin Street, Suite 900 Dallas, TX 75202-5025

LIAISONS AT OTHER STATE AGENCIES (with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)	
Agency Name/Relationship/ Contact Person	Address
Board of Nurse Examiners/ Tony Diggs, Director of Enforcement	333 Guadalupe, Suite 3-460 Austin, TX 78701
Comptroller of Public Accounts (CPA)/ Gary Johnson	111 E. 17 th Street, 9 th Floor P.O. Box 13528 Austin, TX 78711-3528

LIAISONS AT OTHER STATE AGENCIES, continued	
Agency Name/Relationship/ Contact Person	Address
Comptroller of Public Accounts - Texas Treasury Safekeeping Trust Company (also known as Catastrophe Reserve Trust Fund)/ Oscar Ramirez	208 E. 10 th Street, 4 th Floor Austin, TX 78701-2407
Employees Retirement System of Texas/ Benefits Section	18 th & Brazos P.O. Box 13207 Austin, TX 78711-3207
Governor of the State of Texas/ Kelly Sadler, Budget Advisor	1100 San Jacinto P.O. Box 12428 Austin, TX 78711-2428
Governor's Division of Emergency Management – Texas Department of Public Safety/ Jack Colley, Chief	5805 North Lamar Boulevard P.O. Box 4087 Austin, Texas 78773-0220
Governor's Division of Emergency Management – Texas Department of Public Safety/ Ruby Dailey	5805 North Lamar Boulevard P.O. Box 4087 Austin, Texas 78773-0220
Legislative Budget Board/ Sarah Keyton, Budget Analyst	1501 Congress Avenue, 5 th Floor P.O. Box 12666 Austin, TX 78711-2666
Legislative Budget Board/ Thomas Galvan, Performance Measure Analyst	1501 Congress Avenue, 5 th Floor P.O. Box 12666 Austin, TX 78701-2666
Legislative Council/ Deborah Fulton	1501 Congress Avenue P.O. Box 12128 Austin, TX 78711-2128
Lt. Governor's Office/ Karen Barratt	P.O. 12068 Austin, TX 78711-2068
Office of Injured Employee Counsel/ Norman Darwin Brian White	7551 Metro Center Drive, Suite 100, MS-50 Austin, TX 78744
Office of the Attorney General (OAG)/ Elizabeth Buhmann, Division Chief, Public Information and Assistance	300 W. 15 th Street P.O. Box 12548 Austin, TX 78711-2548
Office of the Attorney General (OAG)/ Donna Lee, Public Information and Assistance	300 W. 15 th Street P.O. Box 12548 Austin, TX 78711-2548
OAG/ David Mattax, Division Chief, Financial Litigation Division	300 W. 15 th Street P.O. Box 12548 Austin, TX 78711-2548
Office of Public Insurance Counsel/ Rod Bordelon	333 Guadalupe, Suite 3-120 Austin, TX 78701
Public Utility Commission of Texas/ Sue Mainzer Richard Saldana	1701 N. Congress Austin, TX 78701
Secretary of State, Texas Register/ Dan Procter, Director	1019 Brazos Austin, TX 78701
Speaker of the Texas House of Representatives/ Royce Poinsett, General Counsel	P.O. Box 2910 Austin TX 78768
State Auditors Office/ Sandra Vice	1501 N. Congress Avenue, Suite 4.224 P.O. Box 12067 Austin, TX 78711-2067
State Board of Podiatric Medical Examiners/ Hemant Makan	333 Guadalupe, Suite 2-320 P.O. Box 12216 Austin, TX 78711-2216

LIAISONS AT OTHER STATE AGENCIES, continued	
Agency Name/Relationship/ Contact Person	Address
State Office of Administrative Hearings/ Gary Elkins, Administrative Law Judge	300 W. 15 th Street, Suite 502 P.O. Box 23025 Austin, TX 78711-3025
State Office of Risk Management/ Sally Becker Jonathan Bow	300 W. 15 th Street, 6 th floor P.O. Box 13777 Austin, TX 78711-3777
Sunset Advisory Commission/ Joey Longley, Director	1501 N. Congress, 6 th Floor P.O. Box 13066 Austin, TX 78711-3066
Texas A&M University System/ Kevin McGinnis	200 Technology Way College Station, TX 77845
Texas Board of Chiropractic Examiners	333 Guadalupe, Suite 3-825 Austin, TX 78701
Texas Commission on Environmental Quality (TCEQ)/ Bridget Bohac Jody Henneke	12100 Park 35 Circle P.O. Box 13087 Austin, TX 78711-3087
Texas Commission on Fire Protection/ Jake Soterion Gary Warren	P.O. Box 2286 Austin, TX 787678
Texas Commission on Law Enforcement/ David Englert	6339 US Hwy. 290 East, Suite 200 Austin, TX 78723
Texas Department of Aging and Disabilities/ Roger Adams, HICAP contract	701 W. 51 st Street Austin, TX 78751
Texas Department of Banking/ Everett Jobe, General Counsel	2601 N. Lamar Boulevard Austin TX 78705-4294
Texas Department of Information Resources/ Brian Bell, Partner in implementation of SB 1670, 79 th Legislature	300 West 15th Street, Suite 1300 Austin TX 78701
Texas Department of Public Safety/ Cheryl Garren, Partner in implementation of SB 1670, 79 th Legislature	5805 North Lamar Boulevard Austin, TX 78752-4422
Texas Department of Transportation/ Jim Baker; John Clavin, Partner in implementation of SB 1670, 79 th Legislature	125 East 11th Street Austin, TX 78701-2483
Texas Engineering Extension Service/ Harvie Cheshire	Texas A & M University 301 Tarrow Street College Station, TX 77840-7896
Texas Forest Service/ Paul Hannermann	P.O. Box 1032 Fredericksburg, TX 78624
Texas Health and Human Service Commission/ Billy Millwee, Medicaid Director	P.O. Box 13247 Austin TX 78711-3247
Texas House of Representatives/ Members	P.O. Box 2910 Austin, TX 78768
Texas Legislative Council	1501 N. Congress P.O. Box 12128 Austin, TX 78711-2128
Texas Medical Board/ Mari Robinson	333 Guadalupe, Suite 3-610 P.O. Box 2018 Austin, TX 78768-2018
Texas State Board of Pharmacy/ Joe Lewis	333 Guadalupe, Suite 3-600 Austin, TX 78701

LIAISONS AT OTHER STATE AGENCIES, continued	
Agency Name/Relationship/ Contact Person	Address
Texas Real Estate Commission/ Della Lindquist, Director of Enforcement	1101 Camino La Costa P.O. Box 12188 Austin, TX 78711-2188
Texas Department of Savings and Mortgage Lending/ John Fleming	2601 N. Lamar, Suite 201 Austin, TX 78705
Texas Secretary of State/ Dan Procter, Director of Texas Register	1019 Brazos, Room 245 P.O. Box 13824 Austin, TX 78711-3824
Texas Senate/ Members	P.O. Box 12068 – Capitol Station Austin, TX 78711
Texas State Board of Dental Examiners/ Lisa Jones, Director of Enforcement	333 Guadalupe, Suite 3-800 P.O. Box 13165 Austin, TX 78711-3165
Texas State Securities Board/ David Weaver, General Counsel	P.O. Box 13167 Austin TX 78711-3167
Texas Workforce Commission/ Larry Jones	101 E. 15th Street Austin, TX 78778
University of Texas System/ Javier Garza	601 Colorado Street Austin, TX 78701-2982

XI. Additional Information

A. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.

The Texas Department of Insurance (TDI) sets high standards for customer service and strives to meet customer expectations. In accordance with the Government Code, Chapter 2114, the agency's customer service standards are outlined in the agency Compact with Texans. TDI's standard is to respond to telephone communications, correspondence, and e-mail as soon as possible, typically responding to customers within the same business day. The processing time for the majority of TDI's complaints is typically 30 days.

TDI has several avenues by which customers may complain about the service they received or the outcome of the complaints they filed against insurers, HMOs, agents, or other entities that TDI regulates.

- The Commissioner's Ombudsman helps the customer get the information requested, uses the complaint process, or brings a customer service issue to the attention of the appropriate manager.
- The Complaints Resolution Director in Consumer Protection may reopen a complaint against a regulated person or complaint if a customer is not satisfied with the resolution of the complaint.
- The Customer Relations representative in TDI's Business Planning & Redesign (BPR) section helps the customer get the information requested, uses the complaint process, or brings a customer service issue to the attention of the appropriate manager. The section also maintains a log of customer relations contacts and complaints about customer service.
- Allegations from a customer or TDI employee of potential fraud, waste, or abuse of TDI resources by TDI employees are reported to the TDI Fraud Unit and referred for possible investigation to the Fraud Prevention Panel consisting of the agency's Chief of Staff, Fraud Unit Director, Internal Audit Director, Agency Ombudsman and Ethics Advisor, and Agency Counsel.

TDI received a total of 13 customer service complaints regarding TDI in 2006. In each instance, TDI staff contacted the complainant, provided the customer with requested information, and explained to the customer the agency processes for complaint and dispute resolution.

B. Fill in the following chart detailing your agency's Historically Underutilized Business (HUB) purchases.

Texas Department of Insurance Exhibit 17: Purchases from HUBs FISCAL YEAR 2004, HUB Purchases				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0.00	\$0.00		11.9%
Building Construction	\$0.00	\$0.00		26.1%
Special Trade	\$1,012	\$0.00		57.2%
Professional Services	\$165,855	\$0.00		20.0%
Other Services	\$3,860,542	\$1,521,913	39.4%	33.0%
Commodities	\$813,959	\$437,216	53.7%	12.6%
TOTAL	\$4,841,370	\$1,959,129	40.4%	

FISCAL YEAR 2005, HUB Purchases				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0.00	\$0.00	0.0%	11.9%
Building Construction	\$0.00	\$0.00	0.0%	26.1%
Special Trade	\$2,516.00	\$2,461.00	97.8%	57.2%
Professional Services	\$240,075.00	\$0.00	0.0%	20.0%
Other Services	\$4,084,316.00	\$1,624,070.00	39.7%	33.0%
Commodities	\$1,396,390.00	\$1,053,706.00	75.4%	12.6%
TOTAL	\$5,723,298.00	\$2,680,237.00	46.8%	

FISCAL YEAR 2006, HUB Purchases				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0.00	\$0.00	0.0%	11.9%
Building Construction	\$0.00	\$0.00	0.0%	26.1%
Special Trade	\$20,390.00	\$2,461.00	12.0%	57.2%
Professional Services	\$271,049.00	\$87,820.00	32.4%	20.0%
Other Services	\$8,499,039.00	\$2,938,051.00	34.5%	33.0%
Commodities	\$1,458,087.00	\$818,742.00	56.1%	12.6%
TOTAL	\$10,248,567.00	\$3,847,074.00	37.5%	

C. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy?

The Texas Department of Insurance has a HUB Policy. TDI addresses performance shortfalls related to the HUB policy by continually reviewing the agency’s HUB participation. TDI makes a good faith effort to identify and utilize HUB vendors within all procurement processes. In addition, TDI hosts and participates in HUB forums across the state and educates HUBs on how to effectively do business with TDI and the state.

D. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Tex. Government Code, Sec. 2161.252; TAC 111.14)

Yes.

E. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.

	Response / Agency Contact
1. Do you have a HUB coordinator? (Tex. Government Code, Sec. 2161.062; TAC 111.126)	Yes. Regina B. Durden (512) 475-1782
2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Tex. Government Code, Sec. 2161.066; TAC 111.127)	Yes. Each year the agency sponsors HUB forums allowing minority and women-owned businesses to meet agency staff and learn about TDI's procurement opportunities.
3. Has your agency developed a mentor-protege program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Tex. Government Code, Sec. 2161.065; TAC 111.128)	Yes.

F. Fill in the chart below detailing your agency's Equal Employment Opportunity (EEO) statistics.

Texas Department of Insurance							
Exhibit 18: Equal Employment Opportunity Statistics							
FISCAL YEAR 2004							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force	Agency	Civilian Labor Force	Agency	Civilian Labor Force
Officials/Administration	108	13.9%	7%	13.9%	11%	43.5%	31%
Professional	598	10.4%	9%	20.1%	10%	54.7%	47%
Technical	61	11.3%	14%	12.9%	18%	32.8%	39%
Protective Services	0	0.0%	18%	0.0%	21%	0.00%	21%
Para-Professionals	117	15.3%	18%	37.3%	31%	93.2%	56%
Administrative Support	18	22.2%	19%	44.4%	27%	61.1%	80%
Skilled Craft	2	0.0%	10%	100.0%	28%	50.0%	10%
Service/Maintenance	2	0.0%	18%	50.0%	44%	0.0%	26%

FISCAL YEAR 2005							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force	Agency	Civilian Labor Force	Agency	Civilian Labor Force
Officials/Administration	101	13.9%	7%	14.9%	11%	43.6%	31%
Professional	591	10.7%	9%	20.3%	10%	55.2%	47%
Technical	46	13.0%	14%	13.0%	18%	30.4%	39%

Protective Services	0	0.0%	18%	0.0%	21%	0	21%
Para-Professionals	110	17.3%	18%	34.5%	31%	91.8%	56%
Administrative Support	14	14.3%	19%	50.0%	27%	64.3%	80%
Skilled Craft	2	0.0%	10%	100.0%	28%	50.0%	10%
Service/Maintenance	1	0.0%	18%	0.0%	44%	0.0%	26%

FISCAL YEAR 2006							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force	Agency	Civilian Labor Force	Agency	Civilian Labor Force
Officials/Administration	138	13.0%	7%	13.0%	11%	50.0%	31%
Professional	959	11.7%	9%	22.8%	10%	58.8%	47%
Technical	101	10.9%	14%	22.8%	18%	35.6%	39%
Protective Services	0	0	18%	0	21%	0.0%	21%
Para-Professionals	271	17.0%	18%	45.4%	31%	90.0%	56%
Administrative Support	163	20.9%	19%	50.3%	27%	90.2%	80%
Skilled Craft	2	0.0%	10%	100.0%	28%	50.0%	10%
Service/Maintenance	4	0.0%	18%	75.0%	44%	0.0%	26%

G. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

TDI's equal employment opportunity policy is in the Employee Rights section of TDI's Personnel Manual.

TDI has a Recruitment Plan in place but is always looking for new recruitment avenues. The current Recruitment Plan was reviewed and approved by the Civil Rights Division (CRD) of the Texas Workforce Commission in the CRD's compliance audit of TDI's personnel policies and procedures in 2006.

TDI analyzes equal employment opportunity statistics on a monthly basis. In addition to comparisons with the civilian workforce, TDI compares its workforce statistics to the state agency workforce as well. TDI reviews recruitment efforts in order to advertise to those groups in which there are deficiencies with civilian or state agency workforces.

In July 2007, Human Resources asked the employee cultural committees at TDI to assist in recruitment efforts by providing representatives to work with HR to review its current recruitment strategies and identifying new recruitment strategies.

As part of the business planning process, TDI is requiring program areas to provide recruitment resources in order to have information readily available should the need to recruit for a particular job series or program area become necessary to fill vacant positions.

XII. Agency Comments

Because the 80th Legislature postponed the Sunset Review of the Division of Workers' Compensation (DWC) until 2011, TDI prepared its Self-Evaluation Report with limited references to DWC programs and policy issues. In general, if a function, activity, or policy issue impacted DWC as well as the rest of the agency, DWC is included with the agency response. Issues solely affecting DWC will be incorporated into the DWC Self-Evaluation Report anticipated for submission in August 2009.

For the past two years, new and existing TDI staff and Commissioners worked to integrate DWC as a TDI program. In addition to consolidating administrative functions, TDI combined similar regulatory activities and implemented standard practices for handling complaints and Independent Review Organization review requests. Accordingly, descriptions in Section II: Key Functions and Performance reflect agency activities, including those of DWC.

V. Funding (Attachment)

D. Show your agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2006.

Texas Department of Insurance		
Exhibit 6: Objects of Expense by Program or Function Fiscal Year 2006		
Object-of-Expense	Program Name	Amount
1001	SALARIES & WAGES	
	Administrative Operations	\$8,867,089.78
	Commissioner's Administration	2,203,935.11
	Consumer Protection (CP)	3,071,543.97
	DWC Commissioner's Administration	880,558.26
	DWC Dispute Resolution	6,286,438.81
	DWC Enforcement	228,067.89
	DWC Field Services	10,609,625.35
	DWC Fraud	189,238.20
	DWC Health Networks	77,775.18
	DWC Legal & Compliance	1,732,280.80
	DWC Policy & Research	2,217,503.87
	DWC Workplace & Medical Services	3,099,232.87
	Financial	8,860,063.59
	Fraud	1,530,661.72
	Life, Health, & Licensing (LHL)	5,192,013.70
	Property & Casualty (P&C)	5,792,457.18
	State Fire Marshal's Office (SFMO)	2,757,868.91
	TDI Enforcement	1,929,139.66
	TDI Legal	2,227,430.93
	Workers' Comp Research	216,305.86
	<i>Subtotal</i>	\$67,969,231.64
1002	OTHER PERSONNEL COSTS	
	Administrative Operations	\$427,850.05
	Commissioner's Administration	94,917.11
	Consumer Protection (CP)	149,106.08
	DWC Commissioner's Administration	36,440.33
	DWC Dispute Resolution	245,285.18
	DWC Enforcement	8,880.00
	DWC Field Services	589,916.17
	DWC Legal & Compliance	106,811.09
	DWC Policy & Research	60,870.00
	DWC Workplace & Medical Services	112,160.25
	Financial	368,622.79
	Fraud	44,210.15
	Life, Health, & Licensing (LHL)	257,432.74
	Property & Casualty (P&C)	281,906.69
	State Fire Marshal's Office (SFMO)	126,022.72
	TDI Enforcement	99,043.03

		TDI Legal	41,623.52
		Workers' Comp Research	2,340.00
		<i>Subtotal</i>	3,053,437.90
2001	PROFESSIONAL FEES/SERVICES		
		Administrative Operations	\$3,550,240.75
		Commissioner's Administration	20,831.87
		DWC Commissioner's Administration	3,619.61
		DWC Legal & Compliance	286,662.44
		DWC Workplace & Medical Services	183,034.62
		Fraud	2,081.22
		Life, Health, & Licensing (LHL)	96,541.29
		Property & Casualty (P&C)	33,848.67
		State Fire Marshal's Office (SFMO)	6,608.86
		TDI Enforcement	119,376.00
		Workers' Comp Research	194,940.00
		<i>Subtotal</i>	4,497,785.33
2002	FUELS AND LUBRICANTS		
		Administrative Operations	\$10,737.40
		Commissioner's Administration	23.80
		State Fire Marshal's Office (SFMO)	113,467.17
		<i>Subtotal</i>	\$124,228.37
2003	CONSUMABLE SUPPLIES		
		Administrative Operations	\$165,499.83
		Commissioner's Administration	7,417.86
		Consumer Protection (CP)	15,938.56
		DWC Commissioner's Administration	775.66
		DWC Dispute Resolution	27,213.01
		DWC Enforcement	137.66
		DWC Field Services	125,146.51
		DWC Legal & Compliance	2,184.67
		DWC Policy & Research	1,950.39
		DWC Workplace & Medical Services	12,262.49
		Financial	43,788.27
		Fraud	10,283.10
		Life, Health, & Licensing (LHL)	39,776.27
		Property & Casualty (P&C)	29,751.19
		State Fire Marshal's Office (SFMO)	33,930.62
		TDI Enforcement	20,967.83
		Workers' Comp Research	787.11
		<i>Subtotal</i>	537,811.03
2004	UTILITIES		
		Administrative Operations	\$701,666.97
		Commissioner's Administration	3,720.89
		Consumer Protection (CP)	18,132.23
		DWC Commissioner's Administration	541.58
		DWC Dispute Resolution	179.40
		DWC Enforcement	43.68
		DWC Field Services	2,669.33
		DWC Legal & Compliance	186.12

		DWC Policy & Research	132.00
		DWC Workplace & Medical Services	7,823.17
		Financial	34,042.97
		Fraud	10,890.38
		Life, Health, & Licensing (LHL)	410.68
		Property & Casualty (P&C)	45,362.90
		State Fire Marshal's Office (SFMO)	41,297.92
		TDI Enforcement	533.69
		<i>Subtotal</i>	867,633.91
2005	TRAVEL IN-STATE		
		Administrative Operations	\$33,948.68
		Commissioner's Administration	14,083.20
		Consumer Protection (CP)	106,850.90
		DWC Commissioner's Administration	3,609.17
		DWC Dispute Resolution	118,062.31
		DWC Enforcement	110.89
		DWC Field Services	49,219.02
		DWC Legal & Compliance	19,547.02
		DWC Policy & Research	40,683.78
		DWC Workplace & Medical Services	161,035.23
		Financial	498,990.89
		Fraud	88,891.89
		Life, Health, & Licensing (LHL)	22,151.27
		Property & Casualty (P&C)	238,920.93
		State Fire Marshal's Office (SFMO)	137,499.62
		TDI Enforcement	8,578.01
		Workers' Comp Research	1,274.14
		<i>Subtotal</i>	1,543,456.95
2006	RENT - BUILDING		
		Administrative Operations	\$2,723,787.81
		Consumer Protection (CP)	3,510.00
		DWC Field Services	58,069.39
		DWC Workplace & Medical Services	122,718.64
		Financial	51,380.56
		Fraud	2,465.00
		Life, Health, & Licensing (LHL)	1,024.00
		Property & Casualty (P&C)	82,404.32
		State Fire Marshal's Office (SFMO)	8,316.29
		<i>Subtotal</i>	3,053,676.01
2007	RENT - MACHINE AND OTHER		
		Administrative Operations	\$229,727.57
		Commissioner's Administration	7,940.63
		Consumer Protection (CP)	9,973.08
		DWC Dispute Resolution	1,538.50
		DWC Field Services	12,138.00
		DWC Workplace & Medical Services	5,591.74
		Financial	24,038.28
		Fraud	2,671.92
		Life, Health, & Licensing (LHL)	19,058.16

		Property & Casualty (P&C)	22,121.21
		State Fire Marshal's Office (SFMO)	7,516.08
		TDI Enforcement	11,701.12
		<i>Subtotal</i>	354,016.29
2009	OTHER OPERATING EXPENSE		
		Administrative Operations	\$4,244,325.67
		Commissioner's Administration	240,825.58
		Consumer Protection (CP)	292,959.31
		DWC Commissioner's Administration	17,481.62
		DWC Dispute Resolution	49,365.35
		DWC Enforcement	4,481.22
		DWC Field Services	338,120.61
		DWC Legal & Compliance	21,262.24
		DWC Policy & Research	63,277.18
		DWC SUBSEQUENT INJURY FUND ADM	2,626,768.67
		DWC Workplace & Medical Services	251,004.41
		Financial	267,930.08
		Fraud	38,744.28
		Life, Health, & Licensing (LHL)	288,560.75
		Property & Casualty (P&C)	138,026.35
		State Fire Marshal's Office (SFMO)	171,321.84
		TDI Enforcement	154,434.01
		TDI Legal	10.00
		Workers' Comp Research	2,361.08
		<i>Subtotal</i>	9,211,260.25
2105	TRAVEL OUT-OF-STATE		
		Administrative Operations	\$889.24
		Commissioner's Administration	5,465.77
		DWC Agency Wide	0.00
		DWC Commissioner's Administration	7,174.48
		DWC Workplace & Medical Services	41,055.01
		Financial	416,194.45
		Fraud	1,067.20
		Life, Health, & Licensing (LHL)	12,871.08
		State Fire Marshal's Office (SFMO)	2,503.15
		TDI Enforcement	3,787.63
		<i>Subtotal</i>	491,008.01
5000	CAPITAL EXPENDITURES		
		Administrative Operations	\$323,398.23
		<i>Subtotal</i>	323,398.23
		TOTAL	\$92,026,943.92

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Fireworks Singular Display Permit / State Fire Marshal / Occ. Code, § 154.204	\$50 / \$50	578	\$28,900	TDI Operating Account
Fireworks education & safety / State Fire Marshal / Occ. Code, § 2154.055(d)(1)	\$10 / \$10	4646	\$46,460	General Revenue
Fireworks education & safety / State Fire Marshal / Occ. Code, § 2154.055(d)(2)	\$250 / \$250	52	\$13,000	General Revenue
Fireworks duplicate or revised licenses / State Fire Marshal / Occ. Code, § 2154.104	\$20 / \$20	61	\$1,220	TDI Operating Account
Renewal Fireworks Pyrotechnic Operator License / State Fire Marshal / Occ. Code, § 2154.106	\$25 / \$100	450	\$11,250	TDI Operating Account
Renewal Fireworks Pyrotechnic Special Effects Operator License / State Fire Marshal / Occ. Code, § 2154.106	\$25 / \$100	205	\$5,125	TDI Operating Account
Renewal Flame Effects Operator License / State Fire Marshal / Occ. Code, § 2154.106	\$25 / \$100	59	\$1,475	General Revenue
Renewal Fireworks Manufacturer License / State Fire Marshal / Occ. Code, § 2154.106	\$1,000 / \$1,000	1	\$1,000	TDI Operating Account
Renewal Fireworks Distributor License / State Fire Marshal / Occ. Code, § 2154.106	\$1,500 / \$1,500	43	\$64,500	TDI Operating Account
Renewal Fireworks Jobber License / State Fire Marshal / Occ. Code, § 2154.106	\$1,000 / \$1,000	4	\$4,000	TDI Operating Account
Renewal Fireworks Distributor License late fee 1 to 90 days / State Fire Marshal / Occ. Code, § 2154.106	\$750 / 1/2 initial fee	2	\$1,500	TDI Operating Account
Renewal Fireworks Distributor License late fee 91 days to two years / State Fire Marshal / Occ. Code, § 2154.106	\$1,500 / full initial fee	0	\$0	TDI Operating Account
Renewal Fireworks Pyrotechnic Operator License late fee 1 to 90 days / State Fire Marshal / Occ. Code, § 2154.106	\$22.50 / 1/2 initial fee	28	\$630	TDI Operating Account
Renewal Fireworks Pyrotechnic Operator License late fee 91 days to two years / State Fire Marshal / Occ. Code, § 2154.106	\$45 / full initial fee	9	\$405	TDI Operating Account
Renewal Fireworks Pyrotechnic Special Effects Operator License late fee 1 to 90 days / State Fire Marshal / Occ. Code, § 2154.106	\$22.50 / 1/2 initial fee	11	\$247	TDI Operating Account
Renewal Fireworks Pyrotechnic Special Effects Operator License late fee 91 days to two years / State Fire Marshal / Occ. Code, § 2154.106	\$45 / full initial fee	4	\$180	TDI Operating Account
Renewal Flame Effects Operator License late fee 1 to 90 days / State Fire Marshal / Occ. Code, § 2154.106	\$22.50 / 1/2 initial fee	3	\$67	General Revenue

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Initial Fireworks Distributor License / State Fire Marshal / Occ. Code, § 2154.152	\$1,500 / \$1,500	3	\$4,500	TDI Operating Account
Pyrotechnic Operator License Initial Examination fee / State Fire Marshal / Occ. Code, § 2154.154	\$20 / \$30	37	\$740	TDI Operating Account
Initial Fireworks Pyrotechnic Operator License / State Fire Marshal / Occ. Code, § 2154.154	\$45 / \$100	30	\$1,350	TDI Operating Account
Initial Fireworks Pyrotechnic Special Effects Operator License / State Fire Marshal / Occ. Code, § 2154.155	\$45 / \$100	28	\$1,260	TDI Operating Account
Initial Flame Effects Operator License / State Fire Marshal / Occ. Code, § 2154.156	\$45 / \$100	28	\$1,260	General Revenue
Fireworks Retail Permit / State Fire Marshal / Occ. Code, § 2154.202	\$20 / \$20	4622	\$92,440	TDI Operating Account
Fireworks Multiple Display Permit / State Fire Marshal / Occ. Code, § 2154.204	\$400 / \$400	16	\$6,400	TDI Operating Account
Renewal Fireworks Manufacturer License late fee 1 to 90 days / State Fire Marshal / Occ. Code § 2154.106	\$500 / 1/2 initial fee	0	\$0	TDI Operating Account
Renewal Fireworks Manufacturer License late fee 91 days to two years / State Fire Marshal / Occ. Code § 2154.106	\$1000 / full initial fee	0	\$0	TDI Operating Account
Renewal Fireworks Jobber License late fees 1 to 90 days / State Fire Marshal / Occ. Code § 2154.106	\$500 / 1/2 initial fee	0	\$0	TDI Operating Account
Renewal Fireworks Jobber License late fees 91 days to two years / State Fire Marshal / Occ. Code § 2154.106	\$1000 / full initial fee	0	\$0	TDI Operating Account
Renewal Flame Effects Operator License late fee 91 days to two years / State Fire Marshal / Occ. Code § 2154.106	\$45 / full initial fee	0	\$0	General Revenue
Initial Fireworks Manufacturer License / State Fire Marshal / Occ. Code § 2154.151	\$1000 / \$1,000	1	\$1,000	TDI Operating Account
Initial Fireworks Jobber License / State Fire Marshal / Occ. Code § 2154.153	\$1000 / \$1,500	0	\$0	TDI Operating Account
Pyrotechnic Operator License Reexamination fee / State Fire Marshal / Occ. Code § 2154.154	\$0 / \$20	0	\$0	TDI Operating Account
Pyrotechnic Special Effects Operator License Initial Examination fee / State Fire Marshal / Occ. Code § 2154.155	\$20 / \$30	0	\$0	TDI Operating Account
Pyrotechnic Special Effects Operator License Reexamination fee / State Fire Marshal / Occ. Code § 2154.155	\$20 / \$20	0	\$0	TDI Operating Account
Flame Effects Operator License Initial Examination fee / State Fire Marshal / Occ. Code § 2154.156	\$20 / \$30	0	\$0	General Revenue

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Flame Effects Operator License Reexamination fee / State Fire Marshal / Occ. Code § 2154.156	\$20 / \$20	0	\$0	General Revenue
Agricultural, Industrial, and Wildlife Control Fireworks Use Permit / State Fire Marshal / Occ. Code § 2154.203	\$10 / \$50	0	\$0	TDI Operating Account
Biennial Renewal Fire Extinguisher License Type K (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art 5.43-1 Sec 4 (c-1)	\$50 / \$50	37	\$3,700	TDI Operating Account
Renewal Fire Extinguisher License Type K late fee 1 to 90 days / State Fire Marshal / TIC Art 5.43-1 Sec 7A (b)	\$35 / 1/2 initial fee	3	\$105	TDI Operating Account
Renewal Fire Extinguisher License Type K late fee 91 days to two years / State Fire Marshal / TIC Art 5.43-1 Sec 7A (b)	\$70 / full initial fee	1	\$70	TDI Operating Account
Renewal Fire Extinguisher License Type R late fee 1 to 90 days / State Fire Marshal / TIC Art 5.43-1 Sec 7A (b)	\$35 / 1/2 initial fee	0	\$0	TDI Operating Account
Renewal Fire Extinguisher License Type R late fee 91 to two years / State Fire Marshal / TIC Art 5.43-1 Sec 7A (b)	\$70 / full initial fee	0	\$0	TDI Operating Account
Renewal Extinguisher Certificate of Registration Type C late fee 91 days to two years / State Fire Marshal / TIC Art 5.43-1 Sec 7A (b)	\$250 / full initial fee	0	\$0	TDI Operating Account
Renewal Extinguisher Branch Office Certificate late fee 91 days to two years / State Fire Marshal / TIC Art 5.43-1 Sec 7A (b)	\$100 / full initial fee	1	\$100	TDI Operating Account
Fire Alarm reexamination fee / State Fire Marshal / TIC Art 5.43-2 Sec 5 (c)	\$20 / \$20	0	\$0	TDI Operating Account
Renewal Fire Alarm Certificate of Registration - Single Station late fee 91 days to two years / State Fire Marshal / TIC Art 5.43-2 Sec 5C (a)	\$250 / full initial fee	0	\$0	TDI Operating Account
Renewal Fire Alarm Branch Office Certificate of Registration late fee 91 days to two years / State Fire Marshal / TIC Art 5.43-2 Sec 5C (a)	\$150 / full initial fee	1	\$150	TDI Operating Account
Initial Fire Sprinkler Responsible Managing Employee License - Dwelling / State Fire Marshal / TIC Art 5.43-3 Sec 4 (c)	\$150 / \$200	0	\$0	TDI Operating Account
Biennial Renewal Fire Sprinkler Responsible Managing Employee License - Dwelling (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art 5.43-3 Sec 4 (c)	\$100 / \$200	0	\$0	TDI Operating Account
Renewal Fire Sprinkler Certificate of Registration late fee 91 days to two years / State Fire Marshal / TIC Art 5.43-3 Sec 5A (b)	\$900 / full initial fee	0	\$0	TDI Operating Account
Renewal Fire Sprinkler Certificate of Registration - Dwelling late fee 1 to 90 days / State Fire Marshal / TIC Art 5.43-3 Sec 5A (b)	\$150 / 1/2 initial fee	0	\$0	TDI Operating Account
Renewal Fire Sprinkler Certificate of Registration - Dwelling late fee 91 days to two years / State Fire Marshal / TIC Art 5.43-3 Sec 5A (b)	\$300 / full initial fee	0	\$0	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Renewal Fire Sprinkler Certificate of Registration - Underground Firemain late fee 91 days to two years / State Fire Marshal / TIC Art 5.43-3 Sec 5A (b)	\$300 / full initial fee	1	\$300	TDI Operating Account
Renewal Fire Sprinkler - Responsible Managing Employee License - General and Dwelling late fee 1 to 90 days / State Fire Marshal / TIC Art 5.43-3 Sec 5A (b)	\$100 / 1/2 initial fee	0	\$0	TDI Operating Account
Renewal Fire Sprinkler Responsible Managing Employee License - Dwelling late fee 1 to 90 days / State Fire Marshal / TIC Art 5.43-3 Sec 5A (b)	\$75 / 1/2 initial fee	0	\$0	TDI Operating Account
Renewal Fire Sprinkler Responsible Managing Employee License - Dwelling late fee 91 days to two years / State Fire Marshal / TIC Art 5.43-3 Sec 5A (b)	\$150 / full initial fee	0	\$0	TDI Operating Account
Biennial Renewal Extinguisher Branch Office Certificate (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(a)	\$100 / \$100	42	\$8,400	TDI Operating Account
Initial Extinguisher Certificate of Registration Type A, B, and PL / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(a)	\$450 / \$450	48	\$21,600	TDI Operating Account
Initial Extinguisher Branch Office Certificate / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(a)	\$100 / \$100	10	\$1,000	TDI Operating Account
Biennial Renewal Extinguisher Certificate of Registration Type A, B, and PL (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(a)	\$300 / \$300	241	\$144,600	TDI Operating Account
Fire Extinguisher duplicate or revised certificates, licenses, or permits / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(b)	\$20 / \$20	508	\$10,160	TDI Operating Account
Initial Fire Extinguisher License Type A / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$70 / \$70	18	\$1,260	TDI Operating Account
Biennial Renewal Fire Extinguisher License Type A (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$50 / \$50	464	\$46,400	TDI Operating Account
Initial Fire Extinguisher License Type B / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$70 / \$70	157	\$10,990	TDI Operating Account
Biennial Renewal Fire Extinguisher License Type B (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$50 / \$50	434	\$43,400	TDI Operating Account
Initial Fire Extinguisher License Type PL / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$70 / \$70	5	\$350	TDI Operating Account
Biennial Renewal Fire Extinguisher License Type PL (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$50 / \$50	33	\$3,300	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Initial Fire Extinguisher License Type K / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$70 / \$70	47	\$3,290	TDI Operating Account
Fire Extinguisher initial examination fee / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$20 / \$30	220	\$4,400	TDI Operating Account
Fire Extinguisher reexamination fee / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$20 / \$20	0	\$0	TDI Operating Account
Initial Fire Extinguisher License Type R / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$70 / \$70	0	\$0	TDI Operating Account
Biennial Renewal Fire Extinguisher License Type R (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(c-1)	\$50 / \$100	0	\$0	TDI Operating Account
Fire Extinguisher Apprentice Permit / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(d)	\$30 / \$30	207	\$6,210	TDI Operating Account
Initial Extinguisher Certificate of Registration Type C / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(e)	\$250 / \$250	6	\$1,500	TDI Operating Account
Biennial Renewal Extinguisher Certificate of Registration Type C (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-1 Sec. 4(e)	\$150 / \$150	45	\$13,500	TDI Operating Account
Renewal Extinguisher Certificate of Registration Type C late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$125 / 1/2 initial fee	2	\$250	TDI Operating Account
Renewal Extinguisher Branch Office Certificate late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$50 / 1/2 initial fee	0	\$0	TDI Operating Account
Renewal Fire Extinguisher License Type A late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$35 / 1/2 initial fee	50	\$1,750	TDI Operating Account
Renewal Fire Extinguisher License Type A late fee 91 to two years / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$70 / full initial fee	22	\$1,540	TDI Operating Account
Renewal Fire Extinguisher License Type B late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$35 / 1/2 initial fee	33	\$1,155	TDI Operating Account
Renewal Fire Extinguisher License Type B late fee 91 to two years / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$70 / full initial fee	16	\$1,120	TDI Operating Account
Renewal Fire Extinguisher License Type PL late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$35 / 1/2 initial fee	3	\$105	TDI Operating Account
Renewal Fire Extinguisher License Type PL late fee 91 to two years / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$70 / full initial fee	0	\$0	TDI Operating Account
Renewal Extinguisher Certificate of Registration Type A, B, and PL late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$225 / 1/2 initial fee	21	\$4,725	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Renewal Extinguisher Certificate of Registration Type A, B, and PL late fee 91 days to two years / State Fire Marshal / TIC Art. 5.43-1 Sec. 7A(b)	\$450 / full initial fee	3	\$1,350	TDI Operating Account
Initial Fire Alarm Monitoring Technician License / State Fire Marshal / TIC Art. 5.43-2 Sec. 5	\$120 / \$120	4	\$480	TDI Operating Account
Initial Fire Alarm Certificate of Registration / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(a)	\$500 / \$500	164	\$82,000	TDI Operating Account
Biennial Renewal Fire Alarm Certificate of Registration (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(a)	\$250 / \$500	476	\$476,000	TDI Operating Account
Initial Fire Alarm Certificate of Registration - Single Station / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(a)	\$250 / \$250	8	\$2,000	TDI Operating Account
Biennial Renewal Fire Alarm Certificate of Registration - Single Station (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(a)	\$250 / \$250	8	\$4,000	TDI Operating Account
Initial Fire Alarm Branch Office Certificate of Registration / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(b)	\$150 / \$150	27	\$4,050	TDI Operating Account
Biennial Renewal Fire Alarm Branch Office Certificate of Registration (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(b)	\$150 / \$150	79	\$23,700	TDI Operating Account
Initial Fire Alarm Technician License / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$120 / \$120	263	\$31,560	TDI Operating Account
Biennial Renewal Fire Alarm Technician License (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$100 / \$100	1524	\$304,800	TDI Operating Account
Biennial Renewal Fire Alarm Monitoring Technician License (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$100 / \$100	16	\$3,200	TDI Operating Account
Initial Fire Alarm Planning Superintendent / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$120 / \$120	38	\$4,560	TDI Operating Account
Biennial Renewal Fire Alarm Planning Superintendent (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$100 / \$100	233	\$46,600	TDI Operating Account
Initial Residential Fire Alarm Superintendent License / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$120 / \$120	74	\$8,880	TDI Operating Account
Biennial Renewal Residential Fire Alarm Superintendent License (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$200 / \$100	452	\$90,400	TDI Operating Account
Initial Residential Fire Alarm Supt.- Single Station / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$120 / \$120	7	\$840	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Biennial Renewal Residential Fire Alarm Supt.- Single Station (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$100 / \$100	5	\$1,000	TDI Operating Account
Fire Alarm initial examination fee / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(c)	\$20 / \$30	341	\$6,820	TDI Operating Account
Fire Alarm duplicate or revised certificates, licenses, or permits / State Fire Marshal / TIC Art. 5.43-2 Sec. 5(d)	\$20 / \$20	1504	\$30,080	TDI Operating Account
Renewal Fire Alarm Certificate of Registration late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$125 / 1/4 initial fee	39	\$4,875	TDI Operating Account
Renewal Fire Alarm Certificate of Registration late fee 91 days to two years / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$500 / full initial fee	15	\$7,500	TDI Operating Account
Renewal Fire Alarm Certificate of Registration - Single Station late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$62.50 / 1/4 initial fee	0	\$0	TDI Operating Account
Renewal Fire Alarm Branch Office Certificate of Registration late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$37.50 / 1/4 initial fee	6	\$225	TDI Operating Account
Renewal Fire Alarm Technician License late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$30 / 1/4 initial fee	217	\$6,510	TDI Operating Account
Renewal Fire Alarm Technician License late fee 91 days to two years / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$120 / full initial fee	89	\$10,680	TDI Operating Account
Renewal Fire Alarm Monitoring Technician License late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$30 / 1/4 initial fee	1	\$30	TDI Operating Account
Renewal Fire Alarm Monitoring Technician License late fee 91 days to two years / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$120 / full initial fee	0	\$0	TDI Operating Account
Renewal Fire Alarm Planning Superintendent late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$30 / 1/4 initial fee	22	\$660	TDI Operating Account
Renewal Fire Alarm Planning Superintendent late fee 91 days to two years / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$120 / full initial fee	8	\$960	TDI Operating Account
Renewal Residential Fire Alarm Superintendent License late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$30 / 1/4 initial fee	62	\$1,860	TDI Operating Account
Renewal Residential Fire Alarm Superintendent License late fee 91 days to two years / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$120 / full initial fee	32	\$3,840	TDI Operating Account
Renewal Residential Fire Alarm Supt. - Single Station late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$30 / 1/4 initial fee	2	\$60	TDI Operating Account
Renewal Residential Fire Alarm Supt. - Single Station late fee 91 days to two years / State Fire Marshal / TIC Art. 5.43-2 Sec. 5C(a)	\$120 / full initial fee	0	\$0	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Initial Fire Sprinkler Certificate of Registration / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(a)	\$900 / \$1,200	28	\$25,200	TDI Operating Account
Biennial Renewal Fire Sprinkler Certificate of Registration (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(a)	\$900 / \$1,200	137	\$246,600	TDI Operating Account
Initial Fire Sprinkler Certificate of Registration - Dwelling / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(a)	\$300 / \$1,200	1	\$300	TDI Operating Account
Biennial Renewal Fire Sprinkler Certificate of Registration - Dwelling (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(a)	\$300 / \$1,200	0	\$0	TDI Operating Account
Initial Fire Sprinkler Certificate of Registration - Underground Firemain / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(a)	\$300 / \$1,200	26	\$7,800	TDI Operating Account
Biennial Renewal Fire Sprinkler Certificate of Registration - Underground Firemain (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(a)	\$300 / \$1,200	69	\$41,400	TDI Operating Account
Initial Fire Sprinkler Certificate of Registration application fee / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(a)	\$50 / \$100	48	\$2,400	TDI Operating Account
Initial Fire Sprinkler Responsible Managing Employee License - General / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(c)	\$200 / \$200	31	\$6,200	TDI Operating Account
Biennial Renewal Fire Sprinkler Responsible Managing Employee License - General (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(c)	\$175 / \$200	169	\$59,150	TDI Operating Account
Initial Fire Sprinkler - Responsible Managing Employee License - General and Dwelling / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(c)	\$200 / \$200	2	\$400	TDI Operating Account
Biennial Renewal Fire Sprinkler - Responsible Managing Employee License - General and Dwelling (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(c)	\$175 / \$200	10	\$3,500	TDI Operating Account
Initial Fire Sprinkler Responsible Managing Employee License - Underground Firemain / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(c)	\$150 / \$200	23	\$3,450	TDI Operating Account
Biennial Renewal Fire Sprinkler Responsible Managing Employee License - Underground Firemain (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(c)	\$100 / \$200	92	\$18,400	TDI Operating Account
Initial Fire Sprinkler Responsible Managing Employee License - General Inspector / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(c)	\$50 / \$200	1	\$50	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Biennial Renewal Fire Sprinkler Responsible Managing Employee License - General Inspector (Fee/Cap amounts are annual) / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(c)	\$50 / \$200	0	\$0	TDI Operating Account
Fire Sprinkler initial examination fee / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(c)	\$50 / \$100	35	\$1,750	TDI Operating Account
Fire Sprinkler duplicate or revised certificates or licenses / State Fire Marshal / TIC Art. 5.43-3 Sec. 4(e)	\$35 / \$70	112	\$3,920	TDI Operating Account
Renewal Fire Sprinkler Responsible Managing Employee License - General Inspector late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-3 Sec. 5A (b)	\$25 / 1/2 initial fee	0	\$0	TDI Operating Account
Renewal Fire Sprinkler Responsible Managing Employee License - General Inspector late fee 91 days to two years / State Fire Marshal / TIC Art. 5.43-3 Sec. 5A (b)	\$50 / full initial fee	0	\$0	TDI Operating Account
Renewal Fire Sprinkler Certificate of Registration late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-3 Sec. 5A(b)	\$450 / 1/2 initial fee	12	\$5,400	TDI Operating Account
Renewal Fire Sprinkler Certificate of Registration - Underground Firemain late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-3 Sec. 5A(b)	\$150 / 1/2 initial fee	3	\$450	TDI Operating Account
Renewal Fire Sprinkler Responsible Managing Employee License - General late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-3 Sec. 5A(b)	\$100 / 1/2 initial fee	14	\$1,400	TDI Operating Account
Renewal Fire Sprinkler Responsible Managing Employee License - General late fees 91 days to two years / State Fire Marshal / TIC Art. 5.43-3 Sec. 5A(b)	\$200 / full initial fee	5	\$1,000	TDI Operating Account
Renewal Fire Sprinkler Responsible Managing Employee License - General and Dwelling 90 days to two years / State Fire Marshal / TIC Art. 5.43-3 Sec. 5A(b)	\$200 / full initial fee	0	\$0	TDI Operating Account
Renewal Fire Sprinkler Responsible Managing Employee License - Underground Firemain late fee 1 to 90 days / State Fire Marshal / TIC Art. 5.43-3 Sec. 5A(b)	\$75 / 1/2 initial fee	4	\$300	TDI Operating Account
Renewal Fire Sprinkler Responsible Managing Employee License - Underground Firemain late fee 91 days to two years / State Fire Marshal / TIC Art. 5.43-3 Sec. 5A(b)	\$150 / full initial fee	4	\$600	TDI Operating Account
Amusement ride safety inspection certification - fee per ride / Property & Casualty / Occ. Code 2151.051	\$40 / \$40	1410	\$58,760	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Attorney for title insurance company initial license application / Property & Casualty / TIC § 2552.102	\$50 / \$50	0	\$0	TDI Operating Account
Attorney for title insurance company duplicate license / Property & Casualty / TIC § 2552.104	\$20 / \$20	0	\$0	TDI Operating Account
Attorney for title insurance company annual license renewal / Property & Casualty / TIC §2552.203	\$48 / \$50	0	\$0	TDI Operating Account
Title insurance agent duplicate license / Property & Casualty / TIC § 2651.005	\$20 / \$20	4	\$80	TDI Operating Account
Title insurance direct operation license / Property & Casualty / TIC § 2651.053	\$50 / \$50	1	\$50	TDI Operating Account
Title insurance direct operation license renewal if expired 90 days or less / Property & Casualty / TIC § 2651.055	\$25 / 1/2 renewal fee	0	\$0	TDI Operating Account
Escrow Officer license renewal if expired 90 days or less / Property & Casualty / TIC § 4003.007	\$17.5 / 1/2 renewal fee	53	\$927	TDI Operating Account
Title agent license renewal if expired 90 days or less / Property & Casualty / TIC § 4003.007	\$25 / 1/2 renewal fee	17	\$425	TDI Operating Account
Title insurance agent license / Property & Casualty / TIC § 2651.003	\$50 / \$50	48	\$2,400	TDI Operating Account
Title insurance agent license renewal / Property & Casualty / TIC § 2651.007	\$35 / \$50	822	\$28,770	TDI Operating Account
Title insurance agent additional appointment / Property & Casualty / TIC § 2651.009	\$16 / \$16	142	\$2,272	TDI Operating Account
Title insurance direct operation license renewal / Property & Casualty / TIC § 2651.055	\$35 / \$50	8	\$280	TDI Operating Account
Escrow officer's license / Property & Casualty / TIC § 2652.052	\$35 / \$50	2863	\$100,205	TDI Operating Account
Escrow officer's duplicate license / Property & Casualty / TIC § 2652.054	\$20 / \$20	14	\$280	TDI Operating Account
Escrow officer's license renewal / Property & Casualty / TIC § 2652.152	\$35 / \$50	3135	\$109,742	TDI Operating Account
Catastrophe property insurance pool inspection fee (Note amounts received reflect activity for open cases prior to a statute change effective January 1 2004) / Property & Casualty / TIC Art. 21.49, Sec. 6 A (c)	No charge / NA	105	\$7,780	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Registration of assumed name or additional office (agency) / Life, Health & Licensing / 28 TAC 19.902 (c)	\$50 / Set by Commissioner	2562	\$128,100	TDI Operating Account
Registration of assumed name or additional office (agency) / Life, Health & Licensing / 28 TAC 19.902 (c)	\$50 / Set by Commissioner	1148	\$57,400	General Revenue
Texas Online Subscription Fee for renewals / Life, Health & Licensing / Govt. Code, Sec. 2054.111(e)(1)	\$3 / Set by Commissioner	120035	\$360,105	TDI Operating Account
Texas Online Subscription Fee for renewals / Life, Health & Licensing / Govt. Code, Sec. 2054.111(e)(1)	\$3 / Set by Commissioner	1930	\$5,790	General Revenue
Insurance premium finance company duplicate license, relocation or name change / Life, Health & Licensing / TAC §25.33	\$20 / Set by Commissioner	18	\$360	TDI Operating Account
County Mutual agent license renewal late fee (individual) / Life, Health & Licensing / TIC §4003.007	\$25 / 1/2 license fee	10	\$250	TDI Operating Account
Insurance premium finance company investigation fee for change in ownership / Life, Health & Licensing / TIC §651.052	\$400 / \$200	1	\$200	TDI Operating Account
Registration of assumed name or additional office (individual) / Life, Health & Licensing / TIC 4001.006 and 4001.106	\$50 / Set by Commissioner	4733	\$236,650	TDI Operating Account
Registration of assumed name or additional office (individual) / Life, Health & Licensing / TIC 4001.006 and 4001.106	\$50 / Set by Commissioner	37	\$1,850	General Revenue
Agent continuing education and adjuster prelicensing educator initial course application - per course credit hour / Life, Health & Licensing / TIC 4004.102	\$10 / Set by Commissioner	9880.5	\$98,805	General Revenue
Agent continuing education and adjuster prelicensing educator course renewal - per course credit hour / Life, Health & Licensing / TIC 4004.102	\$10 / Set by Commissioner	8250	\$82,500	General Revenue
Agent continuing education and adjuster prelicensing educator provider registration / Life, Health & Licensing / TIC 4004.103	\$50 / Set by Commissioner	152	\$7,600	General Revenue
Agent continuing education and adjuster prelicensing educator provider renewal - bi-annual at issue date / Life, Health & Licensing / TIC 4004.103	\$50 / Set by Commissioner	460	\$23,000	General Revenue
Agent continuing education course assignment / Life, Health & Licensing / TIC 4004.103	\$50 / Set by Commissioner	24	\$1,200	General Revenue
Workers' Compensation Health Care Network original license fee / Life, Health & Licensing / TIC Art. 1305.052(b)(3)	\$5000 / Set by Commissioner	28	\$140,000	TDI Operating Account
Utilization review agent original license fee / Life, Health & Licensing / TIC Art. 21.58A, Sec. 3(a)	\$2,150 / Set by Commissioner	12	\$27,000	General Revenue
Utilization review agent certificate renewal / Life, Health & Licensing / TIC Art. 21.58A, Sec. 3(d) & (f)	\$545 / Set by Commissioner	82	\$49,285	General Revenue

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Independent Review Organizations (IRO) License / Life, Health & Licensing / TIC Art. 21.58C	\$800 / Set by Commissioner	8	\$7,150	General Revenue
Independent Review Organizations (IRO) Renewal / Life, Health & Licensing / TIC Art. 21.58C	\$200 / Set by Commissioner	11	\$2,545	General Revenue
Reinsurance examination conducted under this subchapter (individual) / Life, Health & Licensing / TIC Sec 4152.104	Attachment A / Set by Commissioner	0	\$0	TDI Operating Account
Viatical/ Life Settlements broker and provider representative initial registration fees and renewal fees / Life, Health & Licensing / TIC Sec. 1111.004	\$500 - \$250 / \$250	193	\$57,650	General Revenue
Letter of certification / Life, Health & Licensing / TIC Sec. 202.051(14)	\$11 / Set by Commissioner	44451	\$488,961	TDI Operating Account
County Mutual agent license application (agency) / Life, Health & Licensing / TIC Sec. 4001.005	\$50 / Set by Commissioner	3	\$150	TDI Operating Account
County Mutual agent license application (individual) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	624	\$31,200	TDI Operating Account
Funeral Pre-Arrangement (Pre-Need) agent license application (individual) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	640	\$32,000	TDI Operating Account
General Lines - Life, Accident and Health agent license application (individual) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	25687	\$1,284,350	TDI Operating Account
General Lines - Property and Casualty agent license application (individual) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	14638	\$731,900	TDI Operating Account
Life Insurance Not to Exceed \$15,000 agent license application (individual) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	206	\$10,300	TDI Operating Account
Limited Lines agent license application (individual) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	1026	\$51,300	TDI Operating Account
General Lines - Life, Accident and Health agent license application (agency) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	928	\$46,400	TDI Operating Account
General Lines - Property and Casualty agent license application (agency) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	1046	\$52,300	TDI Operating Account
Life Insurance Not to Exceed \$15,000 agent license application (agency) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	0	\$0	TDI Operating Account
Limited Lines agent license application (agency) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	13	\$650	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Funeral Pre-Arrangement (Pre-Need) agent license application (agency) / Life, Health & Licensing / TIC Sec. 4001.105	\$50 / Set by Commissioner	0	\$0	TDI Operating Account
Temporary Funeral Pre-Arrangement (Pre-Need) agent license application / Life, Health & Licensing / TIC Sec. 4001.153	\$150 / Set by Commissioner	41	\$6,150	TDI Operating Account
Temporary General Lines - Life, Accident and Health agent license / Life, Health & Licensing / TIC Sec. 4001.153	\$150 / Set by Commissioner	2908	\$436,200	TDI Operating Account
Temporary General Lines - Property and Casualty agent license application / Life, Health & Licensing / TIC Sec. 4001.153	\$150 / Set by Commissioner	67	\$10,050	TDI Operating Account
Temporary Life Insurance not to Exceed \$15,000 agent license application / Life, Health & Licensing / TIC Sec. 4001.153	\$150 / Set by Commissioner	1	\$150	TDI Operating Account
Temporary Limited Lines agent license application / Life, Health & Licensing / TIC Sec. 4001.153	\$150 / Set by Commissioner	7	\$1,050	TDI Operating Account
Temporary County Mutual agent license application / Life, Health & Licensing / TIC Sec. 4001.153	\$150 / Set by Commissioner	0	\$0	TDI Operating Account
Insurance Service Representative appointment / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	61	\$610	TDI Operating Account
County Mutual agent additional appointments (individual) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	224	\$2,240	TDI Operating Account
Funeral Pre-Arrangement (Pre-Need) agent additional appointments (individual) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	559	\$5,590	TDI Operating Account
General Lines - Life, Accident and Health agent additional appointments (individual) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	187747	\$1,877,470	TDI Operating Account
General Lines - Property and Casualty agent additional appointments (individual) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	112213	\$1,122,130	TDI Operating Account
Life Insurance Not to Exceed \$15,000 additional appointment (individual) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	5273	\$52,730	TDI Operating Account
Limited Lines agent additional appointment (individual) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	2085	\$20,850	TDI Operating Account
Managing general agent additional appointments (individual) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	68	\$680	TDI Operating Account
Specialty Insurance agent additional appointment (individual) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	106	\$1,060	General Revenue
County Mutual agent additional appointments (agency) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	1	\$10	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
General Lines - Life, Accident and Health agent additional appointments (agency) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	12626	\$126,260	TDI Operating Account
General Lines - Property and Casualty agent additional appointments (agency) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	25889	\$258,890	TDI Operating Account
Limited Lines agent additional appointment (agency) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	34	\$340	TDI Operating Account
Managing general agent additional appointments (agency) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / \$16	144	\$1,440	TDI Operating Account
Funeral Pre-Arrangement (Pre-Need) agent additional appointments (agency) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	0	\$0	TDI Operating Account
Life Insurance Not to Exceed \$15,000 additional appointment (agency) / Life, Health & Licensing / TIC Sec. 4001.202	\$10 / Set by Commissioner	0	\$0	TDI Operating Account
County Mutual agent license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	1781	\$83,707	TDI Operating Account
Funeral Pre-Arrangement (Pre-Need) agent license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	533	\$25,051	TDI Operating Account
General Lines - Life, Accident and Health agent license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	55587	\$2,612,589	TDI Operating Account
General Lines - Property and Casualty agent license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	31622	\$1,486,234	TDI Operating Account
Life Insurance Not to Exceed \$15,000 agent license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	276	\$12,972	TDI Operating Account
Limited Lines agent license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	2514	\$118,158	TDI Operating Account
Specialty Insurance agent license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	165	\$7,755	General Revenue
County Mutual agent license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	29	\$1,363	TDI Operating Account
Funeral Pre-Arrangement (Pre-Need) agent license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	0	\$0	TDI Operating Account
General Lines - Life, Accident and Health agent license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	2063	\$96,961	TDI Operating Account
General Lines - Property and Casualty agent license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	2379	\$111,813	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Life Insurance Not to Exceed \$15,000 agent license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	1	\$47	TDI Operating Account
Limited Lines agent license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	51	\$2,397	TDI Operating Account
Specialty Insurance agent license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	1631	\$76,657	General Revenue
Surplus lines agent license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4003.004	\$47 / Set by Commissioner	763	\$21,761	TDI Operating Account
Funeral Pre-Arrangement (Pre-Need) agent license renewal late fee (individual) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	3	\$75	TDI Operating Account
General Lines - Life, Accident and Health agent renewal late fee (individual) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	307	\$7,675	TDI Operating Account
General Lines - Life, Accident and Health agent renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	9	\$225	TDI Operating Account
General Lines - Property and Casualty agent license renewal late fee (individual) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	179	\$4,475	TDI Operating Account
General Lines - Property and Casualty agent license renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	10	\$250	TDI Operating Account
Insurance Service Representative license renewal late fee / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	4	\$100	TDI Operating Account
Life insurance counselor license renewal late fee / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	1	\$25	TDI Operating Account
Life Insurance Not to Exceed \$15,000 agent license renewal late fee (individual) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	2	\$50	TDI Operating Account
Limited Lines agent license renewal late fee (individual) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	14	\$350	TDI Operating Account
Risk manager's license renewal late fee / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	8	\$200	TDI Operating Account
Specialty Insurance agent renewal late fee (individual) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	1	\$25	General Revenue
Specialty Insurance agent renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	7	\$175	General Revenue
Surplus lines agent license renewal late fee (individual) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	6	\$150	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Surplus lines agent license renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	2	\$50	TDI Operating Account
County Mutual agent license renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	0	\$0	TDI Operating Account
Funeral Pre-Arrangement (Pre-Need) agent license renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	0	\$0	TDI Operating Account
Life Insurance Not to Exceed \$15,000 agent license renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	0	\$0	TDI Operating Account
Limited Lines agent license renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4003.007	\$25 / 1/2 license fee	0	\$0	TDI Operating Account
Continuing Education voluntary fines / Life, Health & Licensing / TIC Sec. 4005.109	\$50 / Set by Commissioner	1882	\$94,100	General Revenue
Insurance Service Representative license application / Life, Health & Licensing / TIC Sec. 4051.152	\$50 / Set by Commissioner	143	\$7,150	TDI Operating Account
Insurance Service Representative license renewal - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4051.152	\$47 / Set by Commissioner	748	\$35,156	TDI Operating Account
Full-time Home Office Salaried Employee Registration / Life, Health & Licensing / TIC Sec. 4051.301	\$50 / Set by Commissioner	59	\$2,950	TDI Operating Account
Life insurance counselor license application / Life, Health & Licensing / TIC Sec. 4052.003	\$50 / Set by Commissioner	60	\$3,000	TDI Operating Account
Life insurance counselor license renewal - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4052.003	\$47 / Set by Commissioner	155	\$7,285	TDI Operating Account
Life insurance counselor license application (agency) / Life, Health & Licensing / TIC Sec. 4052.003	\$50 / Set by Commissioner	6	\$300	TDI Operating Account
Managing general agent license application (individual) / Life, Health & Licensing / TIC Sec. 4053.004	\$50 / Set by Commissioner	47	\$2,350	TDI Operating Account
Managing general agent license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4053.004	\$47 / Set by Commissioner	802	\$37,694	TDI Operating Account
Managing general agent license application (agency) / Life, Health & Licensing / TIC Sec. 4053.004	\$50 / Set by Commissioner	63	\$3,150	TDI Operating Account
Managing general agent license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4053.004	\$47 / Set by Commissioner	388	\$18,236	TDI Operating Account
Managing general agent license renewal late fee (individual) / Life, Health & Licensing / TIC Sec. 4053.004	\$25 / Set by Commissioner	4	\$100	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Managing general agent license renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4053.004	\$25 / Set by Commissioner	2	\$50	TDI Operating Account
Specialty Insurance agent license application (individual) / Life, Health & Licensing / TIC Sec. 4055.004	\$50 / Set by Commissioner	107	\$5,350	General Revenue
Specialty Insurance agent license application (agency) / Life, Health & Licensing / TIC Sec. 4055.004(1)	\$50 / Set by Commissioner	357	\$17,850	General Revenue
Insurance adjuster's license / Life, Health & Licensing / TIC Sec. 4101.057	\$50 / \$50	18723	\$936,150	TDI Operating Account
Insurance adjuster's license renewal - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4101.057	\$47 / \$50	19235	\$904,045	TDI Operating Account
Insurance adjuster's renewal late fee / Life, Health & Licensing / TIC Sec. 4101.057	\$25 / 1/2 license fee	106	\$2,650	TDI Operating Account
Insurance adjuster's emergency license / Life, Health & Licensing / TIC Sec. 4101.101	\$20 / \$20	1673	\$33,460	TDI Operating Account
Public insurance adjuster application fee (individual) / Life, Health & Licensing / TIC Sec. 4102.066	\$50 / Set by Commissioner	76	\$3,800	General Revenue
Public adjuster trainee certificate registration fee / Life, Health & Licensing / TIC Sec. 4102.066	\$50 / Set by Commissioner	0	\$0	General Revenue
Public insurance adjuster license renewal fee (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4102.066	\$47 / Set by Commissioner	62	\$2,914	General Revenue
Public insurance adjuster license renewal late fee (individual) / Life, Health & Licensing / TIC Sec. 4102.066	\$47 / Set by Commissioner	0	\$0	General Revenue
Public adjuster trainee certificate renewal fee - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4102.066	\$47 / Set by Commissioner	0	\$0	General Revenue
Public insurance adjuster application fee (agency) / Life, Health & Licensing / TIC Sec. 4102.066	\$50 / Set by Commissioner	4	\$200	General Revenue
Public insurance adjuster license renewal fee (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4102.066	\$47 / Set by Commissioner	1	\$47	General Revenue
Public insurance adjuster license renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4102.066	\$47 / Set by Commissioner	0	\$0	General Revenue
Third Party Administrators original application for a certificate of authority / Life, Health & Licensing / TIC Sec. 4151.206(1)	\$500 / \$1,000	51	\$25,500	TDI Operating Account
Third Party Administrators annual report filing fee / Life, Health & Licensing / TIC Sec. 4151.206(3) eff. 04/01/05	\$100 / \$200	691	\$69,100	TDI Operating Account
Reinsurance intermediary broker or manager license application (individual) / Life, Health & Licensing / TIC Sec. 4152.055	\$500 / Set by Commissioner	1	\$500	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Reinsurance intermediary broker or manager license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4152.055	\$497 / Set by Commissioner	7	\$3,479	TDI Operating Account
Reinsurance intermediary broker or manager reciprocal license (individual) / Life, Health & Licensing / TIC Sec. 4152.055	\$500 / Set by Commissioner	0	\$0	TDI Operating Account
Reinsurance intermediary broker or manager license application (agency) / Life, Health & Licensing / TIC Sec. 4152.055	\$500 / Set by Commissioner	12	\$6,000	TDI Operating Account
Reinsurance intermediary broker or manager license renewal (agency) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4152.055	\$497 / Set by Commissioner	32	\$15,904	TDI Operating Account
Reinsurance intermediary broker or manager reciprocal license (agency) / Life, Health & Licensing / TIC Sec. 4152.055	\$500 / Set by Commissioner	0	\$0	TDI Operating Account
Reinsurance intermediary renewal late fee (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4152.055	\$250 / Set by Commissioner	0	\$0	TDI Operating Account
Reinsurance intermediary renewal late fee (agency) / Life, Health & Licensing / TIC Sec. 4152.055	\$250 / Set by Commissioner	1	\$250	TDI Operating Account
Reinsurance examination conducted under this subchapter (individual) / Life, Health & Licensing / TIC Sec. 4152.104	Attachment A / Set by Commissioner	0	\$0	TDI Operating Account
Specialty Insurance agent additional appointment (agency) / Life, Health & Licensing / TIC Sec. 4152.201	\$10 / Set by Commissioner	1263	\$12,630	General Revenue
Risk manager's license application / Life, Health & Licensing / TIC Sec. 4153.057	\$50 / \$50	49	\$2,450	TDI Operating Account
Risk manager's license renewal - bi-annual at issue date / Life, Health & Licensing / TIC Sec. 4153.057	\$47 / \$50	1358	\$63,826	TDI Operating Account
Insurance premium finance company license granted before June 30 / Life, Health & Licensing / TIC Sec. 651.052a	\$200 / \$200	7	\$1,400	TDI Operating Account
Insurance premium finance company license granted after June 30 / Life, Health & Licensing / TIC Sec. 651.052b	\$100 / \$100	3	\$300	TDI Operating Account
Insurance premium finance company investigation fee for initial application / Life, Health & Licensing / TIC Sec. 651.054a(2)	\$400 / \$400	13	\$5,200	TDI Operating Account
Insurance premium finance company license renewal fees / Life, Health & Licensing / TIC Sec. 651.064	\$200 / \$200	301	\$58,600	TDI Operating Account
Insurance premium finance company license renewal late fee if expired less than 90 days / Life, Health & Licensing / TIC Sec. 651.064	\$100 / 1/2 renewal fee	15	\$4,400	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Insurance premium finance company license renewal late fee if expired more than 90 days but less than two years / Life, Health & Licensing / TIC Sec. 651.064	\$200 / original license fee	0	\$0	TDI Operating Account
Surplus lines agent license application (individual) / Life, Health & Licensing / TIC Sec. 981.203(b)(1)	\$50 / Set by Commissioner	463	\$23,150	TDI Operating Account
Surplus lines agent license application (agency) / Life, Health & Licensing / TIC Sec. 981.203(b)(1)	\$50 / Set by Commissioner	156	\$7,800	TDI Operating Account
Surplus lines agent license renewal (individual) - bi-annual at issue date / Life, Health & Licensing / TIC Secs. 4003.007 and 981.222	\$47 / Set by Commissioner	1059	\$49,773	TDI Operating Account
Penalty in lieu of suspension paid as restitution to consumers / Legal Services /	Varies / NA	Unknown	\$293,619	Not In Treasury - Restitution to Consumers
Penalty in Lieu of Suspension / Legal Services / TIC § 83.101, §84.021	Varies / Varies	248	\$5,770,115	General Revenue
Service of legal process / Legal Services / TIC 804.201	\$50 / \$50	272	\$13,050	TDI Operating Account
Judgments and Settlements / Fraud / TIC §31.005, TIC §82.052	Varies / NA	Unknown	\$31,719	General Revenue, TDI Insurance Operating Account
HMO Evidence of Coverage / Financial /	Varies /	9	\$2,138	TDI Operating Account
Continuing care facilities certificate of authority application for a facility in operation or under construction prior to September 1987 / Financial / Health & Safety Code, Sec. 246.027(a)	\$10,000 / \$10,000	1	\$10,000	General Revenue
Continuing care facilities (others) certificate of authority application/disclosure statement / Financial / Health & Safety Code, Sec. 246.027(b)	\$500 / \$500	20	\$10,000	General Revenue
Continuing care facilities (others) fee for each living unit in facility, excluding unit devoted to that portion of facility that is a licensed nursing home / Financial / Health & Safety Code, Sec. 246.027(b)	\$2 per unit / \$2 per unit	20	\$16,462	General Revenue
Workers compensation self-insurance group licensing fee / Financial / Labor Code, Sec. 407A.0051(c), 2003	\$1,000 / \$1,000	1	\$1,000	TDI Operating Account
Dissolution of company / Financial / TBCA Art.10.01	\$25 / \$40	6	\$150	TDI Operating Account
Filing of a direct reinsurance agreement, (Article 22.19, Texas Insurance Code) / Financial / TIC § 202.051 (20)	\$150 / \$300	0	\$0	TDI Operating Account
Filing for approval of agreement for purchase of stock for total assumption reinsurance, pursuant to 21.26 / Financial / TIC § 202.051 (22)	\$750 / \$1,500	0	\$0	TDI Operating Account
Filing a change of attorney in fact / Financial / TIC § 202.051 (26)	\$500 / \$500	4	\$1,625	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Life, Health & Accident Insurance Co. / P&C Co. Filing an amendment to a charter if a hearing is held / Financial / TIC § 202.051 (7)	\$125.00 to \$250.00 / \$500	17	\$4,375	TDI Operating Account
Multiple employee welfare arrangement initial certificate of authority / Financial / TIC § 846.059 (a) (1)	\$5000 / Set by Commissioner	0	\$0	TDI Operating Account
Multiple employee welfare arrangement final certificate of authority / Financial / TIC § 846.059 (a) (2)	\$1500 / Set by Commissioner	0	\$0	TDI Operating Account
Multiple employee welfare arrangement filing fee for appt of commissioner of insurance as the attorney for service of process / Financial / TIC § 846.059 (c)	\$50 / \$50	0	\$0	TDI Operating Account
Stipulated premium insurance company charter / Financial / TIC § 884.056 (a)	\$1500 / \$3,000	0	\$0	TDI Operating Account
Stipulated premium insurance company certified copy of application, articles of incorporation, and affidavit to incorporators / Financial / TIC § 884.059 (c)	\$1 / \$20	0	\$0	TDI Operating Account
Renewal, extension, or amendment of charter of farm mutual insurance company / Financial / TIC § 911.003 (a) (1)	\$10 / \$10	2	\$50	TDI Operating Account
Issuance or renewal of a certificate of authority of farm mutual insurance company / Financial / TIC § 911.003 (a) (2)	\$1 / \$1	0	\$0	TDI Operating Account
Application by farm mutual insurance company for permission to solicit insurance by farm mutual or farmers mutual companies not holding a certificate of authority including six month permit to solicit insurance / Financial / TIC § 911.056	\$25 / Set by Commissioner	0	\$0	TDI Operating Account
Six month permit to solicit insurance renewal of farm mutual insurance co. / Financial / TIC § 911.056	\$10 / \$10	0	\$0	TDI Operating Account
Non profit legal service corporation application including issuance of certificate of authority / Financial / TIC § 961.212 (a) (2)	\$1500 / \$3,000	0	\$0	TDI Operating Account
Non profit legal service corporation additional certificate of authority / Financial / TIC § 961.212 (a) (3)	\$50 / \$100	0	\$0	TDI Operating Account
Non profit legal service corporation amendment of a certificate of authority / Financial / TIC § 961.212 (a) (3)	\$50 / \$100	0	\$0	TDI Operating Account
All Health Maintenance Organizations (HMO)/ANHC - original application for certificate of authority / Financial / TIC 843.154(c)(1)	\$7500 / \$18,000	2	\$15,000	TDI Operating Account
Joint underwriting license / Financial / TIC Art 21.49-3b, Sec 12	\$200 / \$200	0	\$0	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Risk retention group chartered by state - filing fee / Financial / TIC Art 21.54 Sec 3 (f)	\$500 / \$1,000	0	\$0	TDI Operating Account
Risk retention group service of process / Financial / TIC Art 21.54 Sec 4 (b) (3)	\$25 / \$500	0	\$0	TDI Operating Account
Purchasing group service of process / Financial / TIC Art 21.54 Sec 7 (b)	\$25 / \$50	0	\$0	TDI Operating Account
Third Party Reimbursement - Conservation Expenses / Financial / TIC Art. 21.28-A, Sec. 17, GAA - Art. IX, Sec. 8.03,1993	Varies / NA	9	\$214,630	TDI Operating Account
Joint underwriting license renewal / Financial / TIC Art. 21.49-3b, Sec. 12,1991	\$200 / \$200	1	\$200	TDI Operating Account
Risk retention group not chartered by state - filing fee / Financial / TIC Art. 21.54, Sec. 4(c) & (e)	\$250 / \$500	20	\$6,250	TDI Operating Account
Accredited Reinsurer Filing of Annual Statement / Financial / TIC Art. 21.54, Sec. 4(e), Sec. 202.052(a)(2)	\$250 / \$500	28	\$7,000	TDI Operating Account
Purchasing group notice of intent to do business in Texas / Financial / TIC Art. 21.54, Sec. 7(a)	\$50 / \$100	53	\$3,250	TDI Operating Account
Certificate of Valuation, Affixing the office seal and certifying the seal / Financial / TIC Art. 3.28, Sec. 2, 202.051(2)	\$11 / \$20	76	\$25,290	TDI Operating Account
Filing a statement by an insurance holding company for the first \$9,900,000 of purchase price or consideration, pursuant to 823.151 - 823.163 / Financial / TIC Sec 202.051 (16)	\$500 / \$1,000	12	\$5,750	TDI Operating Account
Filing a statement by an insurance holding company for the purchase price or consideration in excess of \$9,900,000, pursuant to 823.151 - 823.163 / Financial / TIC Sec 202.051 (17)	Varies / \$500	4	\$22,250	TDI Operating Account
Filing a registration statement of insurers authorized to do business in Texas and who are members of an insurance holding company pursuant to 823.051 - 823.060 / Financial / TIC Sec 202.051 (18)	Varies / \$300	432	\$60,350	TDI Operating Account
Filing for review of transactions with affiliates within a holding company or direct reinsurance of mutual assessment companies, pursuant to 823.101 - 823.107 or 22.15 / Financial / TIC Sec 202.051 (19)	Varies / \$500	513	\$117,050	TDI Operating Account
Filing for an exemption from change of control within a holding company system, pursuant to 823.164 / Financial / TIC Sec 202.051 (19)	Varies / \$500	25	\$6,250	TDI Operating Account
Fees Collected from HMOs under Art. § 202.051 / Financial / TIC Sec. 202.051	Varies / Varies	64	\$4,997	TDI Operating Account
Lloyds Underwriter Substitution / Financial / TIC Sec. 202.051 (25)	\$125 / \$40	27	\$3,625	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Life, Health & Accident Insurance Co. / P&C Co. Filing an amendment to a certificate of authority if the charter is not amended / Financial / TIC Sec. 202.051(1)	\$50 / \$100	43	\$2,300	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co. Filing a total reinsurance agreement / Financial / TIC Sec. 202.051(10)	\$750 / \$1,500	10	\$8,025	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co. Filing a partial reinsurance agreement / Financial / TIC Sec. 202.051(11)	\$150 / \$300	16	\$2,400	TDI Operating Account
Life, Health & Accident Domestic Insurance Co. / P&C Co. - Accepting a security deposit excluding those made pursuant to Sec. 3.16 / Financial / TIC Sec. 202.051(12)	\$100 / \$200	24	\$2,000	TDI Operating Account
Life, Health & Accident Domestic Insurance Co. / P&C Co. - Substitution or amendment of a security deposit excluding those made pursuant to Sec. 3.16 / Financial / TIC Sec. 202.051(13)	\$50 / \$100	208	\$9,560	TDI Operating Account
Filing a notice of intent to relocate books and records outside of Texas pursuant to Sec. 803 (formerly Art. 1.28) / Financial / TIC Sec. 202.051(15)	\$150 / \$300	18	\$2,700	TDI Operating Account
Filing for approval of merger of stock insurers, pursuant to 21.25 / Financial / TIC Sec. 202.051(21)	\$750 / \$1,500	27	\$26,250	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co. Filing of restated articles of incorporation for domestic, foreign or alien companies / Financial / TIC Sec. 202.051(23)	\$250 / \$500	79	\$20,250	TDI Operating Account
Filing a joint control agreement / Financial / TIC Sec. 202.051(24)	\$50 / \$100	0	\$0	TDI Operating Account
Filing a substitution or amendment to a joint control agreement / Financial / TIC Sec. 202.051(25)	\$20 / \$40	26	\$1,400	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co. Reservation of name / Financial / TIC Sec. 202.051(3)	\$100 / \$200	119	\$11,900	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co. Filing an application for admission of a foreign or alien company, including issuance of a certificate of authority / Financial / TIC Sec. 202.051(5)	Varies / \$4,000	30	\$83,209	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co. Filing an original charter of a company including issuance of a certificate of authority / Financial / TIC Sec. 202.051(6)	\$1,500 / \$3,000	7	\$16,500	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co. Filing an amendment to a charter if a hearing is not held / Financial / TIC Sec. 202.051(8)	\$125 / \$250	90	\$11,875	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Life, Health & Accident Insurance Co. / P&C Co. Filing a designation or amendment to a designation of an attorney for service of process / Financial / TIC Sec. 202.051(9)	\$25 / \$50	141	\$3,400	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co. Renewal of reservation of name / Financial / TIC Sec. 202.051(4)	\$25 / \$50	17	\$440	TDI Operating Account
Retaliatory Fees / Financial / TIC Sec. 281.004,1999	Varies / NA	15	\$480	General Revenue
Premium Finance Assessment & Audits / Financial / TIC Sec. 651.006	Varies / Set by Commissioner	343	\$148,180	TDI Operating Account
HMO filing which does not require approval / Financial / TIC Sec. 843.154(a)(3)	\$50 / \$1000	53	\$3,100	TDI Operating Account
Multiple employee welfare arrangement annual statement / Financial / TIC Sec. 846.059(a)(3)	\$500 / Set by Commissioner	5	\$2,000	TDI Operating Account
Filing Not Requiring Approval / Financial / TIC Section 843.154	\$50 / \$100	8	\$400	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co. Certification of statutory deposits / Certification / TIC Sec. 202.051(14)	\$11 /	4785	\$51,728	TDI Operating Account
Life, Health & Accident Insurance Co. / P&C Co/ Title. Affixing the official seal and certifying the seal / Certification / TIC Sec. 202.051(2)	\$11 /	6012	\$70,284	TDI Operating Account
Returned Check Fee / Administrative Operations / Bus. & Comm. Code, Sec. 3.506(a)	\$25 / \$30	42	\$1,110	General Revenue
Third Party Reimbursement / Administrative Operations / GAA, Art. IX, Sec. 8.03, GAA-VArt. VIII-30 Rider 13	Varies / NA	1188	\$336,061	TDI Operating Account
Conference, Seminars, and Training Registration Fees / Administrative Operations / GAA, Art. IX, Sec. 8.08, 2005, Art. VIII-30 Rider 13	Varies / NA	Unknown	\$179,350	TDI Operating Account
Warrants Voided by Statute of Limitations / Administrative Operations / Govt. Code, Ann Secs. 403.011, 403.071(b),1987	Varies / NA	Unknown	\$14,718	TDI Operating Account
Sale of Publications/Advertising / Administrative Operations / Govt. Code, Sec. 2052.301, TIC Sec. 201.001 (a)(2)	Varies /	Unknown	\$27,330	TDI Operating Account
Sale of Furniture and Equipment / Administrative Operations / Govt. Code, Sec. 2175.134,2003	Varies / NA	0	\$0	General Revenue
Sale of Vehicles - Capital Asset / Administrative Operations / Govt. Code, Sec. 2175.134,2003	Varies / NA	1	\$15,137	General Revenue
Miscellaneous Governmental Revenue / Administrative Operations / Govt. Code, Sec. 403.011, 1987	Varies / NA	13	\$2,013	General Revenue
Miscellaneous Governmental Revenue / Administrative Operations / Govt. Code, Sec. 403.011, 1987	Varies / NA	6	\$3,103	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Indirect Cost Recoveries / Administrative Operations / Govt. Code, Sec. 403.011, 403.012, 2106.006, TIC Sec. 201.001 (a)(2) (D)	Varies / NA	Unknown	\$407	General Revenue
Fees for Copies / Administrative Operations / Govt. Code, Sec. 552.261, TIC Sec. 201.001 (a)(2)(A), GAA, Art. VIII-30 Rider 13	Varies /	Unknown	\$536,279	TDI Operating Account
Limited Sales & Use Tax - State / Administrative Operations / Tax Code Ann. Secs. 151.051,1999	6.25% / 6.25%	Unknown	\$1,373	General Revenue
Discounts for Sales Tax - State Agencies / Administrative Operations / Tax Code Ann. Secs. 151.423,1999	.5% / .5%	Unknown	\$8	General Revenue
Credit Card and Related Fees / Administrative Operations / Tex Gov't Code § 403.023	Varies / NA	0	\$0	TDI Operating Account
Miscellaneous Governmental Revenue / Administrative Operations / Tex. Gov't Code §§ 403.011 1987	Varies / NA	0	\$0	TDI Operating Account
Fire and Allied Lines Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §252.002	Annually set / 1.25	Unknown	\$22,655,798	TDI Operating Account*
Workers' Compensation Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §252.002, Labor Code §407A.302	Annually set / .6%	Unknown	\$2,373,190	TDI Operating Account*
Casualty Insurance, Fidelity, Guranty and Surety Bonds Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §253.002	Annually set / .4%	Unknown	\$5,416,758	TDI Operating Account*
Motor Vehicle Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §254.002	Annually set / .2%	Unknown	\$8,429,817	TDI Operating Account*
Aircraft Insurance Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §256.002	NA / .4%	Unknown	\$0	TDI Operating Account*
Life, Health, Accident Insurance and Gross Considerations for Annuity and Endowment Contracts Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §257.002	Annually set / .04%	Unknown	\$10,216,985	TDI Operating Account*
Health Maintenance Organization Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §258.003	Annually set / \$2	Unknown	\$4,152,157	TDI Operating Account*
Third Party Administrators Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §259.003	Annually set / 1%	Unknown	\$839,530	TDI Operating Account*
Nonprofit Legal Service Corporation Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §260.002	Annually set / 1%	Unknown	\$1,305	TDI Operating Account*

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Title Insurance Maintenance Fee - Collected by Comptroller/Transferred to TDI / Administrative Operations / TIC §271.004	Annually set / 1%	Unknown	\$1,551,862	TDI Operating Account*
Examination Overhead Assessment and Expense Reimbursements / Administrative Operations / TIC Art. 1.16, 1.17, 1.18, 1.04, Sec. 843.156	Varies / Set by Commissioner	Unknown	\$11,703,298	TDI Operating Account
Third Party Reimbursement - Liquidation Expenses / Administrative Operations / TIC Art. 21.28, Sec. 8 (2)(A)(I) and Sec. 12A, GAA - Art. IX, Sec. 8.03,1989	Varies / NA	1	\$673,884	TDI Operating Account
Reimbursement for Catastrophe Reserve Trust Fund / Administrative Operations / TIC Art. 21.49, Sec. 8(i)(5),1999	Varies / \$1,000,000	1	\$1,000,000	TDI Operating Account
Third Party Reimbursement - Title Allocated Expenses / Administrative Operations / TIC Art. 9.48, Sec. 14(c)(13), GAA - Art. IX, Sec. 8.03,1987	Varies / NA	1	\$963,728	TDI Operating Account
Life, health and accident insurance form filings submitted for approval and life, health and accident insurance form filings submitted not requiring approval / Administrative Operations / TIC Sec. 1701.053	Varies / \$100;\$50	569	\$428,650	TDI Operating Account
HMO form filing an evidence of coverage which requires approval and form filing for an evidence of coverage that does not require approval / Administrative Operations / TIC Sec. 843.154(C)(2)(3)	Varies / \$200;\$100	51	\$74,250	TDI Operating Account
Life Valuation Fee - Collected by Comptroller/Transferred to TDI / Administrative Operations /	\$10 per Million / \$10	Unknown	\$8,469,595	TDI Operating Account*
Annual Statement Filing Fees - Collected by Comptroller/Transferred to TDI / Administrative Operations /	Varies / Varies	Unknown	\$220,686	TDI Operating Account*
Self Insurance Application Fees / DWC Workplace and Medical Services / Labor Code § 407.041	1000 / \$1,000	2	\$2,000	TDI Operating Account
Self Insurance Regulatory Fees / DWC Workplace and Medical Services / Labor Code §407.102	Varies / Set by Commissioner	49	\$752,526	TDI Operating Account
Self Insurance Maintenance Tax / DWC Workplace and Medical Services / Labor Code §407.103	Annually set / 2%	49	\$1,084,801	TDI Operating Account
Administrative Penalties / DWC / Labor Code § 415	Varies /	1971	\$1,527,843	TDI Operating Account
Workers' Compensation Insurance - Death Benefits to State / Administrative Operations / Labor Code § 403.007	Varies / NA	57	\$5,994,278	Subsequent Injury Fund
Workers' Compensation Insurance Companies DWC Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / Labor Code §403.003, §407A.301, §407.103	Annually set / 2%	Unknown	\$48,799,605	TDI Operating Account

Description/Program/Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited
Workers' Compensation Evaluation Group Maintenance Tax - Collected by Comptroller/Transferred to TDI / Administrative Operations / Labor Code §405.003	Annually set / .1%	0	\$0	TDI Operating Account
*Equals Collected by Comptroller/Transferred to TDI				
Source:N:Tracking\Sunset\Revenue\FeeRevenuesStatutoryReport>Build				

VII. Guide to Agency Programs (Attachment)

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2006;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

In FY 2006, the Texas Department of Insurance (TDI) had 129 contracts for a total of \$7,249,439.88 in contracted expenditures. TDI defined contracted expenditures as expenditures with estimated values of \$10,000 or more and that require signature of at least two parties, with some exceptions*. A comprehensive list of contracted expenditures by program is provided.

TDI uses the following process to ensure accountability for funding and performance of contracted expenditures.

Purchase Requests (PR) are generated to request the purchase of goods, services, seminars and training. All purchase requisitions are entered into the agency's automated purchasing system, routed through the budget office for approval and approved by a budget analyst. Purchase requests of \$2,500 or more and all Capital Budget requisitions require the Chief Financial Officer (CFO) approval prior to being forwarded to Purchasing. The Budget Director and the CFO's Executive Assistant have delegated authority to release PRs on behalf of the CFO. The Executive Assistant is also responsible for ensuring timely processing of PRs. In addition, all technology-related acquisitions must be approved by TDI's Information Resources Manager.

When the automated system reflects insufficient funds to process a requisition, the requesting program may ask that funds be moved from activity within the program or seek Chief of Staff approval for additional funds.

Once requisitions are approved, the purchasing staff must determine the appropriate procurement method. This may include purchasing directly from a vendor, purchasing from a pre-established contract, or going through a competitive solicitation process. After the contract is awarded, purchasers then determine if the awarded contract requires contract administration.

TDI's contract administration process ensures that contracts are in compliance with the specifications, terms and conditions of the final purchase order or contract established. Each program area designates a contract administrator, who is responsible for the general administration of the program's contracts. A subject matter expert or contract monitor is also designated and is responsible for the day to day communication and activities with the contractor. The contract administrator and/or monitor are required to monitor the contractor's performance throughout the life of the contract. This is accomplished by completing a Vendor Performance Questionnaire and submitting it to the Purchasing Division on a monthly, quarterly, semi-annual, or annual basis (depending on the requirements of the contract). Purchasing will track the progress of the contract using the questionnaires. If there are any issues with the vendor or the contract terms, Purchasing and/or Legal Services will work with the program area to resolve.

Upon receipt of invoice from a contractor, the Accounting Division confirms with the division that services have been rendered for the contract. The division certifies that services have been rendered through various means such as a purchasing system receipt report, an email describing the services received, or other documentation received with the invoice such as signed time sheets for temporary employees.

*Contracted expenditures excluded the following purchase types: expenditures less than \$10,000; pre-established Texas Building and Procurement Commission contracts; pre-established Department of Information Resources contracts; Interagency Contract (two party signatures not required); leases; direct publications (two party agreements not required); utility services; postal services; and procurement card purchases.

VII K. Contracted Expenditures by Program

Program	Unit	PO NUMBER	Index	Vendor Name	Std Text	Total
Administrative Operations						
AO	AO	06-0287	322	Rupert and Associates	Accounting Services - Completion Of AFR	\$24,400.00
AO	AO	06-5627	322	Northrop Grumman Technical Services Inc.	Gfas Accounting System Programming Services	\$82,794.06
AO	AO	06-0067	326	Fedex Corporation	Federal Express Small Parcel Ground Services	\$18,184.82
AO	AO	06-0095	326	Texas State Library & Archives Com	Interagency Contract W/ Texas State Library-SLRM For Microfilming Services	\$13,418.09
AO	AO	06-0119	326	Texas State Library & Archives Com	Interagency Contract W/ Texas State Library-SLRM For Records/Vault Storage	\$39,558.71
AO	AO	06-0127	326	Texas Building & Procurement Commission	Interagency Contract - Custodial Services	\$25,991.51
AO	AO	06-0134	326	Texas Building & Procurement Commission	Interagency Contract - Building Maintenance, Repair And Construction Services	\$63,000.00
AO	AO	06-5600	326	Barbara O Shultz	Moving Services	\$6,621.39
AO	AO	06-5638	326	United Parcel Service	Overnight And 2nd Day Mail Delivery Service	\$21,081.45
AO	AO	06-5641	331	Workers Assistance Program, Inc.	Employee Assistance Program	\$10,527.91
AO	AO	06-0021	341	NOREX, Inc	Subscription Service For Norex Services	\$10,200.00
AO	AO	06-0023	341	ACL Services	Software Maintenance For Data Analysis, Auditing Software	\$12,960.00
AO	AO	06-0104	341	Vexis Systems	Software Maintenance - IvR System	\$20,518.00
AO	AO	06-0117	341	Oracle Corporation	Software License And Support Update For 3 Oracle Database Enterprise Edition	\$82,684.92
AO	AO	06-0118	341	SHI-Government Solutions Inc.	Software Maintenance - Novell Netware 65	\$34,311.48
AO	AO	06-0120	341	Forrester Research, Inc.	Subscription - It Research Service	\$15,861.00
AO	AO	06-0122	341	SHI-Government Solutions Inc.	Software Maintenance - Netbackup, Datacenter, Netware	\$15,841.44
AO	AO	06-0124	341	Technical Services Associates, Inc.	Software Maintenance - Purchasing System	\$16,884.79
AO	AO	06-0154	341	HP Express Services	Hardware Maintenance - Server Equipment	\$13,003.25

VII K. Contracted Expenditures by Program

Program	Unit	PO NUMBER	Index	Vendor Name	Std Text	Total
AO	AO	06-0280	341	SurfControl Inc.	TDI/ITS - Surfcontrol Web Filter Subscription	\$4,142.80
AO	AO	06-1062	341	SHI-Government Solutions Inc.	Software Maintenance - Primesupport Priority Plus - McAfee Active Virusscan	\$7,964.50
AO	AO	06-1346	341	Technical Services Associates, Inc.	Software Purchase - Gateway Purchasing System -OIEC	\$18,900.00
AO	AO	06-5623	341	Humanic Design Corporation	Human Resources Software - Maintenance	\$23,185.50
AO	AO	06-5624	341	PriceWaterhouseCoopers LLP	Software Maintenance	\$20,627.00
AO	AO	06-5639	341	Sircon Corporation	COSMOS Maintenance And SIRCON-Gov Managed Services	\$93,000.00
AO	AO	06-5641	3121	Workers Assistance Program, Inc.	Employee Assistance Program	\$10,422.57
AO	AO	06-2241	3132	AMERITEX	Unarmed Security Guard Services	\$20,391.84
AO	AO	06-0847	3134	Texas Building & Procurement Commission	Postal Services	\$25,000.00
AO	AO	06-2102	3134	UPS MAIL INNOVATIONS	Parcel Mail Expedited Delivery Service	\$12,753.72
AO	AO	06-2111	3134	United Parcel Service	Blanket Order For Small Parcel Ground Delivery Service	\$84,247.64
AO	AO	06-0280	3141	SurfControl Inc.	DWC - Surfcontrol Web Filter Subscription	\$8,911.35
AO	AO	06-1490	3141	Acumen Solutions, Ltd.	Software Maintenance - Netbackup Database Agent	\$3,809.40
AO	AO	06-2121	3142	Anacomp Inc	Hardware Maintenance For A Xerox 4890 Printer	\$53,301.57
AO	AO	06-2122	3142	IVANS, INC.	Dwc-Telecom Connection @ Texas State Data Center	\$13,950.24
AO	AO	06-2262	3142	Northrop Grumman Technical Services Inc.	Outsourcing Services Contract For Mainframe Processing, Network Connectivity And Data Management	\$2,105,660.04
AO	AO	06-0118	3143	SHI-Government Solutions Inc.	Software Maintenance - Novell Open Enterprise Server 10 1-User E-Maintenance	\$80,526.36
AO	AO	06-0408	3143	SHI-Government Solutions Inc.	Software Maintenance - Attachmate Extra! Mainframe Server Edition V81	\$37,800.00
AO	AO	06-0685	3143	CHOICE SOLUTIONS LLC	Software Purchase And Maintenance: Desktop Authority V7	\$18,000.00

VII K. Contracted Expenditures by Program

Program	Unit	PO NUMBER	Index	Vendor Name	Std Text	Total
AO	AO	06-0789	3143	SHI-Government Solutions Inc.	Software Purchase: Microsoft EA Desktop Windows Client Access License Only	\$46,656.00
AO	AO	06-1062	3143	SHI-Government Solutions Inc.	Software Maintenance - Primesupport Priority Plus - McAfee Active Virusscan	\$6,823.50
AO	AO	06-1083	3143	BUSINESS OBJECTS AMERICAS	Maintenance / Extended Service Program (ESP) For Edataquality	\$15,903.00
AO	AO	06-1144	3143	Oracle Corporation	Oracle Database Enterprise Edition	\$54,033.11
AO	AO	06-1228	3143	SHI-Government Solutions Inc.	Software Maintenance - Websphere Datastage TX, Premier Support	\$13,027.50
AO	AO	06-2140	3143	SIGMA SOULUTIONS, INC.	Maintenance Support Of The ADIC SCALAR 1000 Enterprise Backup System	\$10,222.00
AO	AO	06-2191	3143	QA Systems Inc.	Time-And-Materials Contract For On-Site Repair Service DWC Personal Computers	\$6,202.05
AO	AO	06-2221	3143	QA Systems Inc.	Time-And-Materials Contract For On-Site Repair Service DWC Printers	\$14,437.70
AO	AO	06-2232	3143	BINDVIEW DEVELOPMENT	Software Maintenance, Rms Console - Single User	\$13,571.49
AO	AO	06-2233	3143	BearingPoint Inc	Attorney Fee Process Service Application Services	\$50,796.00
AO	AO	06-2240	3143	SHI-Government Solutions Inc.	Software Maintenance - IBM Rational Robot Floating User Annual Support	\$34,021.00
AO	AO	06-2242	3143	IBM Corporation	Hardware Maintenance - P-Series Server	\$33,054.33
AO	AO	06-2246	3143	NAKNAN, INC	Hardware Maintenance Bronze Support For Sun E250 Server	\$10,491.64
AO	AO	06-2261	3143	Department of Information Resources	Contact Programmers, Database Administrators	\$93,894.73
AO	AO	06-2309	3143	HP Express Services	Hardware Support, Hp Support Plus 24 Service	\$31,720.32
AO	AO	06-2337	3143	CORTICON TECHNOLOGIES INC	Software Maintenance-Corticon Software	\$24,999.00
AO	AO	06-2506	3143	SHI-Government Solutions Inc.	Software Purchase - Application Developer For Websphere	\$44,978.00
AO	AO	06-2550	3143	INFORMATION BULIDERS INC	Software Maintenance - IJAC, Iway JDBC Connector (For Java)	\$17,184.00
AO	AO	06-2552	3143	M2 TECHNOLOGY INC	Hardware Maintenance - Silkworm 3800 Fc Switch	\$15,571.80

VII K. Contracted Expenditures by Program

Program	Unit	PO NUMBER	Index	Vendor Name	Std Text	Total
AO	AO	06-2576	3143	FLOYD THOMAS LLC	Software License: Magic Service Desk Suite & Change Management (Bundled Software Package)	\$14,300.00
AO	AO	06-0929	3145	U S TECH	Hardware Purchase - 1 Server	\$10,674.74
AO	AO	06-0935	3145	U S TECH	Hardware Purchase - 2 Servers	\$22,680.00
AO	AO	06-1081	3145	SHI-Government Solutions Inc.	Software License W/ Maintenance IBM Tivoli Composite Application Manager (ITCAM)	\$36,036.04
AO	AO	06-1270	3145	Austin Community College	Training Class Sw284 - Servlet & Jsp Development With Ibm Rational Application Developer V6	\$19,800.00
AO	AO	06-1403	3145	IBM Corporation	Hardware Purchase - Disk Drives	\$15,738.56
AO	AO	06-1415	3145	Commonwealth Computer Co	Hardware Purchase - Memory	\$30,455.50
AO	AO	06-1490	3145	Acumen Solutions, Ltd.	Software Maintenance - Netbackup Database Agent	\$72,741.40
AO	AO	06-2261	3145	Department of Information Resources	Contact Programmers, Database Administrators	\$786,332.72
AO	AO	06-2554	3145	IBM Corporation	Technical Services Related To IBM Ascential (EDI) Software	\$164,687.50
AO	AO	06-2651	3145	IBM Corporation	Programming Services: Ibm System Architect	\$132,621.76
AO	AO	06-0657	1297	SHI-Government Solutions Inc.	Software Purchase - Network Components (Firewall Device With Pre-Loaded Software):	\$16,482.00
AO	AO	06-0928	1297	U S TECH	Hardware Purchase - 6 Servers	\$52,950.90
AO	AO	06-0930	1297	U S TECH	Hardware Purchase - 1 Server	\$10,266.49
AO	AO	06-0935	1297	U S TECH	Hardware Purchase - 2 Servers	\$9,515.43
AO	AO	06-0951	1297	SHI-Government Solutions Inc.	Software Purchase: MS EA Trueup Yr 1 - Microsoft Terminal Server Client Access License (CAL)	\$47,820.00
AO	AO	06-1206	1297	Vector ESP(TX) Inc.	Software Maintenance - Block Of On-Site Support For Citrix Software	\$14,995.00
AO	AO	06-1240	1297	Legal Files Software, Inc.	Fraud Casemanagement System	\$28,000.00
AO	AO	06-1262	1297	Vector ESP(TX) Inc.	Software Maintenance - Citrix	\$85,154.00

VII K. Contracted Expenditures by Program

Program	Unit	PO NUMBER	Index	Vendor Name	Std Text	Total
AO	AO	06-1384	1297	Commonwealth Computer Co	Hardware Purchase - Monitors	\$32,025.00
AO	AO	06-1424	1297	U S TECH	Hardware Purchase - Hp Proliant Servers	\$20,985.01
AO	AO	06-1451	1297	FLOYD THOMAS LLC	Software Purchase - Bmc Service Desk Express Suite (Magic)	\$26,897.26
AO	AO	06-1452	1297	SHI-Government Solutions Inc.	Software Purchase Visio Std 2003 Win32 English	\$10,097.00
AO	AO	06-1453	1297	Lenovo Inc.	Hardware Purchase - Desktop and Notebook Computers	\$132,099.00
AO	AO	06-1457	1297	ADVANCETECH SYSTEMS 2 INC	Hardware Purchase - 3com Switches	\$10,149.00
AO	AO	06-1471	1297	Mailing & Packaging Systems, Inc	Purchase Of Mailing Services	\$16,082.00
AO	AO	06-1490	1297	Acumen Solutions, Ltd.	Software Maintenance - Netbackup Database Agent	\$25,758.80
AO	AO	06-1511	1297	InfoSolutions, Inc.	Software & Maintenance Purchase - Fast Nxt Software Version 43 - Small Enterprise Edition	\$26,380.00
AO	AO	06-1604	1297	Lenovo (United States) Inc	Hardware Purchase - Desktop Computer	\$44,870.00
AO	AO	06-5645	1297	State Auditor's Office	Software Licenses: Team Mate Software Licenses	\$18,750.00
<i>Administrative Operations Program Subtotal</i>						\$5,643,369.63
Commissioner's Area						
COM	COM	06-1628	211	University of North Texas	Interagency Contract - Survey Research Services	\$20,331.87
COM	COM	06-5540	221	Arthur J. Gallagher Co.	Public Officials' Liability Insurance	\$140,120.00
COM	COM	06-5625	221	Kennedy Reporting Service, Inc.	Court Reporting Services	\$15,060.65
COM	COM	06-5645	3014	State Auditor's Office	Software Licenses: Team Mate Software Licenses	\$1,500.00
<i>Commissioner's Area Program Subtotal</i>						\$177,012.52

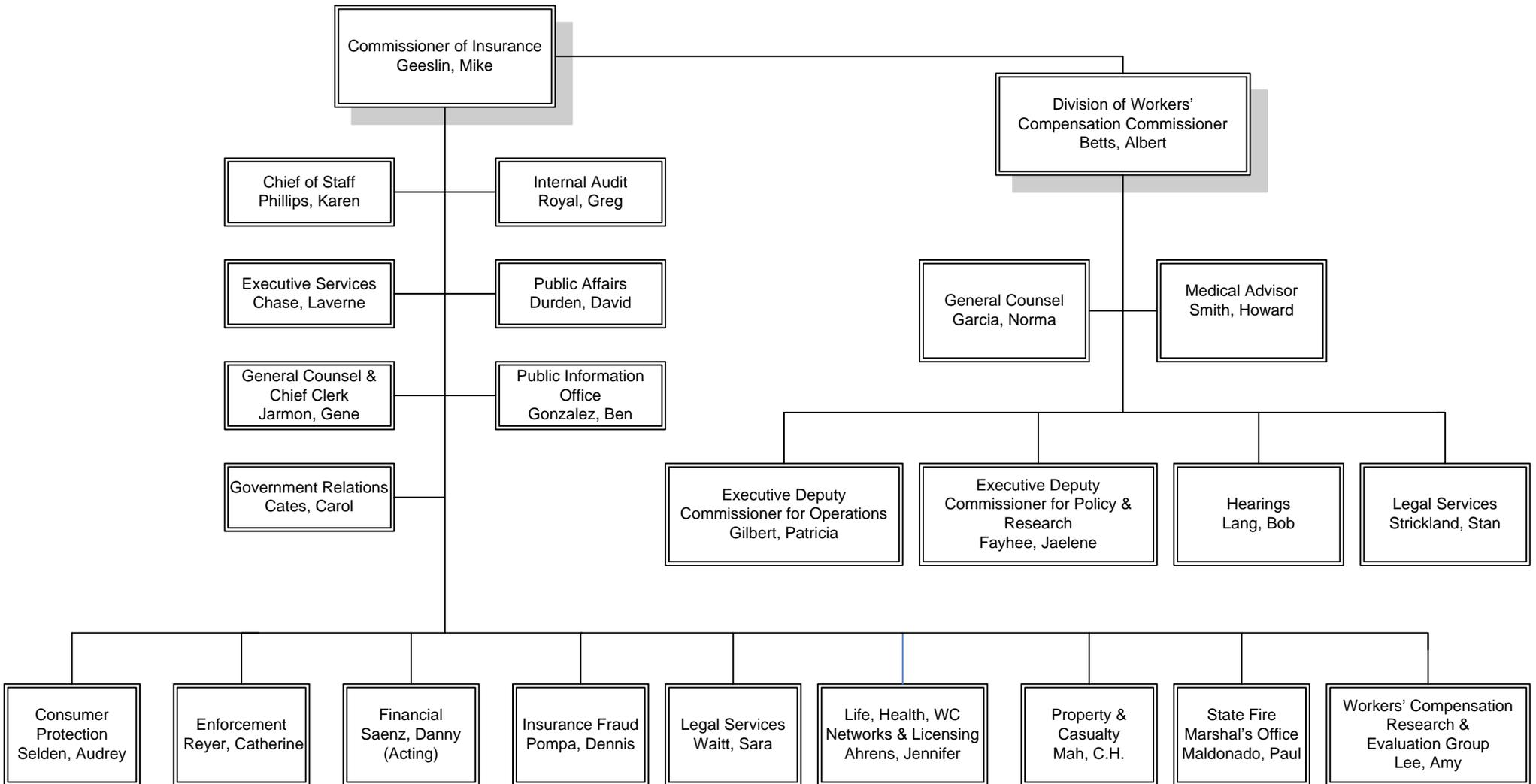
Program	Unit	PO NUMBER	Index	Vendor Name	Std Text	Total
Consumer Protection						
CP	PUB ED & HICAP	06-5626	751	Margarita Lee	Spanish Translation Services	\$5,451.56
CP	PUB ED & HICAP	06-0335	752	Koyne D. Smith	Long-Term Care And Medicare Part D Training Program Development	\$23,100.00
<i>Consumer Protection Program Subtotal</i>						\$28,551.56
Division of Worker's Compensation						
DWC	DWC	06-2246	3024	NAKNAN, INC	Hardware Maintenance Bronze Support For Sun E250 Server	\$8,584.09
DWC	DWC	06-2448	3024	SAS Institute Inc.	Software Maintenance - Sas Software	\$49,740.00
DWC	DWC	06-1578	3201	Ingenix Publications	Internet Database Subscription: Encoder Pro Suite	\$10,449.45
DWC	DWC	06-0188	3211	@ WORK MEDICAL SERVICES	Professional Nursing Services	\$67,630.50
DWC	DWC	06-1050	3211	William P Taylor	Medical Quality Review Panel - Review And Analysis Of Medical Records	\$2,100.00
DWC	DWC	06-2410	3211	JAY M. BARRASH	Medical Quality Review Panel Member (Mqrp) Services	\$9,887.50
DWC	DWC	06-2426	3211	MARTIN STEINER	Medical Quality Review Panel Member (Mqrp) Services Provided By Martin Steiner, Md Services Provided In	\$3,025.00
DWC	DWC	06-0095	3305	Texas State Library & Archives Com	Interagency Contract W/ Texas State Library-SLRM For Microfilming Services	\$15,284.00
DWC	DWC	06-0119	3305	Texas State Library & Archives Com	Interagency Contract W/ Texas State Library-SLRM For Records/Vault Storage	\$53,133.78
DWC	DWC	06-2174	3513	Masterword	Spanish Language Interpreter Service	\$35,913.19
DWC	DWC	06-2179	3514	Masterword	Spanish Language Interpreter Service	\$14,610.82
DWC	DWC	06-2161	3521	Masterword	Spanish Language Interpreter Service	\$11,870.82
DWC	DWC	06-2160	3522	Masterword	Spanish Language Interpreter Service	\$16,368.02
DWC	DWC	06-2173	3531	Masterword	Spanish Language Interpreter Service	\$14,487.89

VII K. Contracted Expenditures by Program

Program	Unit	PO NUMBER	Index	Vendor Name	Std Text	Total
DWC	DWC	06-2171	3536	Masterword	Spanish Language Interpreter Service	\$10,556.26
DWC	DWC	06-2180	3541	ACADEMY SCHOOL OF CAREERS	Spanish Language Interpreter Service	\$6,657.50
DWC	DWC	06-0242	3702	State Office of Administrative Hearings	Interagency Contract - Hearing Officers	\$286,662.44
DWC	DWC	06-2001	4003	DOUBLETREE HOTEL AUSTIN	Conference Services	\$24,511.10
DWC	DWC	06-2311	4003	Paragon Printing & Mailing	Postal Delivery Service	\$17,871.43
<i>Division of Workers' Compensation Program Subtotal</i>						\$659,343.79
Financial						
FIN	GM	06-0096	511	A.M. Best Company	Subscription For AM Best Publications	\$2,337.12
FIN	FE	06-0096	521	A.M. Best Company	Subscription For AM Best Publications	\$5,323.44
FIN	NAIC Database	06-1626	523	NAIC	State Assessment	\$116,169.00
FIN	FE	06-0096	541	A.M. Best Company	Subscription For AM Best Publications	\$4,054.12
FIN	FE	06-5616	542	Ikon Office Solutions	Specialized Copying Services	\$8,643.63
FIN	CON	06-0096	571	A.M. Best Company	Subscription For AM Best Publications	\$2,337.12
<i>Financial Program Subtotal</i>						\$138,864.43
Fraud						
FRAUD	FRAUD	06-0162	811	Joseph Hart	Deposit For Master In Chancery For Discovery Dispute Case	\$3,500.00
FRAUD	FRAUD	06-5617	811	Madison Consulting Group, Inc.	Actuarial Services	\$106,376.00
FRAUD	FRAUD	06-5625	811	Kennedy Reporting Service, Inc.	Court Reporting Services	\$5,707.78
<i>Fraud Unit Program Subtotal</i>						\$115,583.78

Program	Unit	PO NUMBER	Index	Vendor Name	Std Text	Total
Life, Health & Licensing						
LHL	GM	06-0683	412	Milliman USA	Actuarial Services	\$86,496.72
LHL	GM	06-0733	412	UT HOUSTON HEALTH SCIENCES CENTER	State Planning Grant - U Of H Graduate Student	\$5,933.13
LHL	GM	06-1453	412	SHI-Government Solutions Inc.	Software Purchase Visio Std 2003 Win32 English	\$1,321.00
LHL	LIC	06-0156	462	Department Of Public Safety	Interagency Contract - Access To Conduct Criminal History Checks	\$159,847.00
<i>Life, Health and Licensing Program Subtotal</i>						\$253,597.85
Property & Casualty						
P&C	Data Services and Special	06-5615	921	Statistical Service Corp. of Austin	Data Entry Services For Data Entry Services	\$12,113.92
P&C	P&C Commercial	06-5625	938	Kennedy Reporting Service, Inc.	Court Reporting Services	\$1,799.40
P&C	WC	06-0298	942	Texas A&M University	Intra-Agency To Perform Survey Of Injured Workers In The Workers Compensation System	\$14,440.00
P&C	WC	06-0615	942	Workers Compensation Research Institute	Contract To Examine Changes In Performance Of Individual State Systems	\$120,000.00
P&C	WC	06-1207	942	Texas A&M University	Interagency Contract - Employer Survey Regarding Participation In The Texas Workers' Compensation System	\$63,500.00
P&C	Actuarial	06-5618	951	Madison Consulting Group, Inc.	Actuarial Services	\$15,440.00
<i>Property and Casualty Program Subtotal</i>						\$227,293.32
State Fire Marhal's Office						
SFMO	FIRE	06-0156	1061	Department Of Public Safety	Interagency Contract - Access To Conduct Criminal History Checks	\$5,823.00
<i>State Fire Marchal's Office Program Subtotal</i>						\$5,823.00
Major Contracted Expenditures Total						\$7,249,439.88

**Texas Department of Insurance
Agency Organizational Chart
July 2007**



TEXAS DEPARTMENT OF INSURANCE SELF-EVALUATION REPORT ATTACHMENTS

Attachment 1: Enabling Statutes

- 1.A - *Texas Insurance Code*, Section 31.002
- 1.B - *Texas Labor Code*, Section 402.001

Attachment 2: Texas Department of Insurance (TDI) Annual Reports

- 2.A - *TDI 2006 Annual Report*
- 2.B - *TDI 2005 Annual Report*
- 2.C - *TDI 2004 Annual Report*
- 2.D - *TDI 2003 Annual Report*
- 2.E - *TDI 2002 Annual Report*

Attachment 3: Internal or External Newsletters

- 3.A - *Bulletin Board*, Autumn 2004
- 3.B - *Bulletin Board*, Winter 2004
- 3.C - *Bulletin Board*, Spring 2005
- 3.D - *Bulletin Board*, Summer 2005
- 3.E - *Bulletin Board*, Fall 2005
- 3.F - *Bulletin Board*, Winter 2006
- 3.G - *Bulletin Board*, Spring 2006
- 3.H - *Bulletin Board*, Summer 2006
- 3.I - *TDInSight*, August/September 2004
- 3.J - *TDInSight*, October/November 2004
- 3.K - *TDInSight*, December 2004/January 2005
- 3.L - *TDInSight*, February/March 2005
- 3.M - *TDInSight*, April/May 2005
- 3.N - *TDInSight*, June/July 2005
- 3.O - *TDInSight*, August/September 2005
- 3.P - *TDInSight*, October/November 2005
- 3.Q - *TDInSight*, January/February 2006
- 3.R - *TDInSight*, March/April 2006
- 3.S - *TDInSight*, May/June 2006
- 3.T - *TDInSight*, July/August 2006

Attachment 4: TDI Publications & Brochures

Attachment 5: Required TDI Studies

Attachment 6: Current TDI Legislative or Interagency Studies

Attachment 7: Studies Affecting TDI

Attachment 8: Biographical Information

- 8.A - Commissioner of Insurance
- 8.B - Commissioner of Workers' Compensation

Attachment 9: Recent Rules

- 9.A - *Texas Administrative Code*, Title 28, Part One (2007)
- 9.B - *Texas Administrative Code*, Title 28, Part Two (2007)

Attachment 10: Legislative Appropriations Request

Attachment 11: Annual Financial Reports

- 11.A - *TDI 2006 Annual Financial Report*
- 11.B - *TDI 2005 Annual Financial Report*
- 11.C - *TDI 2004 Annual Financial Report*
- 11.D - *TDI 2003 Annual Financial Report*
- 11.E - *TDI 2002 Annual Financial Report*

Attachment 12: Operating Budget

- 12.A - *TDI Operating Budget, Fiscal Year 2007*
- 12.B - *TDI Operating Budget, Fiscal Year 2006*
- 12.C - *TDI Operating Budget, Fiscal Year 2005*

Attachment 13: TDI Headquarters and Field Office Locations

Attachment 14: Quarterly Performance Reports

- 14.A - *TDI Annual Performance Measure Report, Fiscal Year 2006*
- 14.B - *TDI Annual Performance Measure Report, Fiscal Year 2005*
- 14.C - *TDI Annual Performance Measure Report, Fiscal Year 2004*

Attachment 15: Recent Studies on Agency Functions

- 15.A - *Texas Workers' Compensation Commission Sunset Staff Report, April 2004*
- 15.B - *State Fire Marshal Survey of Other States, Outreach And Education*
- 15.C - *State Comparison of Fire Prevention Programs*

Attachment 16: TDI Internal Audit Fiscal Year 2007 Annual Audit Plan

Attachment 17: TDI Internal Audit Reports

Attachment 18: State Auditor Reports

- 18.A - State Auditor's Office Reports Query Results, Criteria: Texas Department of Insurance
- 18.B - State Auditor's Office Reports Query Results, Criteria: Division of Workers' Compensation

Attachment 19: Customer Service Surveys (FY 2006)

- 19.A - *TDI Fiscal Year (FY) 2006 Customer Service Report*
- 19.B - *TDI Customer Satisfaction Survey, Industry Survey Key*
- 19.C - *TDI Customer Satisfaction Survey, Consumers Survey Key*
- 19.D - *TDI Customer Satisfaction Survey, State Fire Marshal Survey Key*
- 19.E - *TDI Customer Satisfaction Survey, Workers' Compensation Survey Key*
- 19.F - *TDI Customer Satisfaction Survey, Workers' Compensation Survey Key (Phone)*
- 19.G - *TDI Facilities Survey, William P. Hobby Building*
- 19.H - *TDI Facilities Survey, Division of Workers' Compensation (DWC) Central Office (English)*
- 19.I - *TDI Facilities Survey, Division of Workers' Compensation (DWC) Central Office (Spanish)*
- 19.J - *TDI Facilities Survey, Division of Workers' Compensation (DWC) Field Office (English)*
- 19.K - *TDI Facilities Survey, Division of Workers' Compensation (DWC) Field Office (Spanish)*
- 19.L - *TDI Financial Program, Customer Response Form*
- 19.M - *TDI Fraud Unit Customer Survey*
- 19.N - *TDI Open Records Customer Survey*
- 19.O - *TDI Internet Survey*