

Texas Department of Licensing and Regulation

IA# 2018-01 Internal Audit over Enforcement

Administration

Report Date: August 23, 2018

Issued: September 5, 2018

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Commissioners of the
Texas Department of Licensing and Regulation
920 Colorado St.
Austin, TX 78701

This report presents the results of the internal audit procedures performed for Texas Department of Licensing and Regulation during the period July 4, 2018 through August 23, 2018 relating to the Enforcement Administration process of the agency.

The objectives of the internal audit were to evaluate the design and effectiveness of Texas Department of Licensing and Regulation's Enforcement Administration process as follows:

- A. Determine whether internal controls over Enforcement Administration processes are in place to ensure that consistent processes are implemented and designed effectively to address the risks within the associated sub-processes and to ensure effective operations.
- B. Verify that controls over critical Enforcement Administration processes are operating effectively, efficiently and according to Texas law and TDLR policy.
- C. Evaluate access controls within the Legal Files system to ensure that access is restricted to appropriate individuals.

To accomplish these objectives, we conducted interviews with personnel responsible for Enforcement Administration. We also reviewed documentation and performed specific testing procedures to assess controls. Procedures were performed at Texas Department of Licensing and Regulation's facilities and were completed on August 23, 2018.

The following report summarizes the findings identified, risks to the organization, recommendations for improvement and management's responses.

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WEAVER AND TIDWELL, L.L.P.

Austin, Texas
August 23, 2018

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Background

Texas Department of Licensing and Regulation (TDLR or the agency) is a state agency responsible for licensing and regulating a broad range of occupations, businesses, facilities, and equipment. The agency's Enforcement Division is responsible for enforcing compliance with the state licensing regulations. As part of the enforcement administration process, the Enforcement Division is responsible for processing complaints about licensed and unlicensed businesses and individuals from both the general public and from within TLDR. The complaints are divided into two types: consumer complaints and departmental complaints.

Consumer complaints are submitted via the TDLR website or email by members of the general public and are assigned to TDLR Intake staff for processing. Upon receipt of a complaint, the Intake Administrative Assistants perform an initial review of the complaint to determine if the complaint is within TDLR's jurisdiction. All complaints within TLDR's jurisdiction are recorded in TLDR's tracking system, Legal Files, for processing. If the complaint does not fall within TDLR jurisdiction, the Intake Administrative Assistant sends a Closing Letter to the complainant and records the complaint into a tracking list.

Legal Assistants review the complaints entered in Legal Files to ensure that the complaints are adequately documented and that TDLR has jurisdiction over the individual or event before assigning the complaint to an investigator in Legal Files. The Legal Assistants then send an Opening Letter to the complainant informing them that an investigation has been opened.

Departmental complaints are submitted to the Intake centralized email and through the online system by internal TDLR staff. Upon receipt, Intake Legal Assistants review complaints to ensure that a violation of rule or law has occurred before assigning the complaint to an investigator. In instances where the complaint is a result of an inspection by a Field Operations Inspector, the complaint is assigned to a Prosecutor.

Upon assignment, Investigators conduct interviews, gather supporting documentation and perform other procedures relevant to completing the investigation. Once the Investigator completes their procedures, they submit an Investigation Report to the Investigation Team Lead for review and approval. After approval, the complaint and corresponding Investigation Report is assigned to Prosecution for resolution.

Agency Prosecutors are responsible for determining the appropriate resolution of cases for TDLR. Upon being assigned a case, Prosecutors review the Investigation Report and other pertinent documents to determine if there is sufficient evidence to prove violations have occurred. If it is determined that the evidence is not sufficient or that prosecution is not appropriate for other reasons (i.e. the case resolved informally), the Prosecutor prepares a Closing Letter for all affected parties explaining the determination for closing the complaint.

If it is determined that the violation is minor in nature, the Prosecutor prepares a Warning Letter explaining the violation. If evidence supports that a violation has occurred and the violation is not considered minor, the Prosecutor prepares a Notice of Alleged Violation (NOAV) explaining the alleged violations, the law/rule that was violated, the license status of the respondent, the respondent's violation history, the range of penalties/sanctions authorized in the Enforcement Plan, and a statement of the administrative penalties/sanctions to be requested. Prosecution Legal Assistants review NOAVs to ensure the recommended enforcement actions align with TDLR's Enforcement Plan prior to mailing the NOAV to the respondent.

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Additionally, NOAVs may contain a settlement offer. If Prosecution reaches an agreement with the party responsible for the violation, an Agreed Order is issued with the NOAV. Prosecution Legal Assistants prepare Agreed Orders, enter the penalties/sanctions in Legal Files, and places an enforcement hold in the appropriate license database for the Prosecutor to review. Prosecutors review and approve the Agreed Orders to ensure that penalties and sanctions are accurately recorded. Upon review, the Agreed Order is forwarded to the Executive Director for final approval, before mailing the Agreed Order to all affected parties.

If the respondent requests a hearing in writing within 20 days of receiving the NOAV, a hearing is scheduled to go before the State Office of Administrative Hearings (SOAH). The case is heard by an Administrative Law Judge, who submits a Proposal for Decision (PFD) with a recommended case resolution. The final decision is made by the TDLR Commission after consideration of the PFD, and a Final Order is mailed to all parties.

If a respondent neither accepts the agency's offer, nor requests the hearing, Prosecution Legal Assistants prepare a Default Order, enter the penalties/sanctions in Legal Files, and place an enforcement hold in the appropriate license database for the Prosecutor to review. Prosecutors review and approve Default Orders to ensure that penalties and sanctions are accurately recorded. Upon approval, the Default Order is forwarded to the Executive Director for final approval and a copy is mailed to all affected parties.

Respondents have a right to appeal the final decision by filing a Motion for Rehearing with TDLR. The Motion for Rehearing must be filed within 25 days from the Final Order date and must specifically identify the error in the Order. Upon receipt of a Motion for Rehearing, the Assistant General Counsel reviews case documentation in Legal Files, orders issued, and findings stated in the Motion to determine if the Motion meets the criteria listed in the Texas Government Code. The agency is required to act on the Motion within 55 days from the Final Order or extend the action for 100 days. The final decision on the Motion is made by TDLR's Commission.

Audit Objective and Scope

The audit focused on the Enforcement Administration process in place within the Enforcement Division of TDLR. We reviewed the procedures in place for appropriate risk and regulatory coverage and compliance to ensure efficient and effective processes. Key functions and sub-processes within the Enforcement Administration process reviewed included:

- Complaints Intake
- Investigations
- Prosecutions
- Enforcement Actions
- Motions for Rehearing

Our procedures were designed to ensure relevant risks are covered and verify the following:

Complaints Intake

- TDLR contact information is accessible to consumers in order to file a complaint
- Complaint jurisdiction is appropriately determined
- Complaints are adequately documented and maintained by the agency
- Complaints are processed according to TDLR procedures

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- Complaints are processed in a timely manner
- Complainants receive appropriate correspondence
- Complaints are appropriately referred to investigations or prosecution

Investigations

- Investigated complaints have complete information and documentation
- Individuals involved with the complaint are notified of investigation initiation
- Investigation status is provided quarterly to affected individuals by TDLR staff
- All required investigation procedures were completed by investigators
- Investigations are completed in a timely manner
- Investigations are closed or referred to prosecution appropriately

Prosecutions

- Cases with insufficient evidence are closed and affected parties notified
- Resolutions are reviewed and approved by appropriate personnel
- Cases are resolved in a timely manner
- Recommended enforcement actions align with TDLR's enforcement plan and criminal conviction guidelines

Enforcement Actions

- Notices of Alleged Violation (NOAV) are complete and accurate
- NOAVs are provided timely to affected parties
- Penalties and license sanctions are issued in accordance with TDLR's enforcement plan
- Penalties and sanctions are adequately reviewed and approved prior to issuance
- Penalties and sanctions are accurately recorded (enforcement holds)

Motions for Rehearing

- Motions for Rehearing meet the criteria listed in the state code
- Motions for Rehearing are processed in a timely manner
- Respondents are notified of the final decision

Our procedures included interviewing key personnel within the Enforcement Division and General Counsel's Office to gain an understanding of the current processes in place, examining existing documentation, and evaluating the internal controls over the processes. We evaluated the existing policies, procedures, and processes in their current state. Our coverage period was from November 1, 2016 through May 31, 2018.

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Executive Summary

Through our interviews, evaluation of internal control design, and testing of transactions we identified six findings. The listing of findings include those items that have been identified and are considered to be non-compliance issues with documented Texas Department of Licensing and Regulation policies and procedures, rules and regulations required by law, or where there is a lack of procedures or internal controls in place to cover risks to the Texas Department of Licensing and Regulation. These issues could have significant financial or operational implications.

A summary of our results, by audit objective, is provided in the table below. *See the Appendix for an overview of the Assessment and Risk Ratings.*

Overall Assessment	SATISFACTORY
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Scope Area	Result	Rating
<p>Objective A: Determine whether internal controls over Enforcement Administration processes are in place to ensure that consistent processes are implemented and designed effectively to address the risks within the associated sub-processes and to ensure effective operations.</p>	<p>We identified 21 controls to be in place in the processes. However, there are opportunities to strengthen the processes and control environment including:</p> <ul style="list-style-type: none"> Implement a review of complaint intake handling to ensure complaints are processed accurately and completely Increase the frequency of the review of the Cases and Complaints Pending Report to every two weeks in order to be able to effectively monitor the average days complaints are open Implement procedures to monitor the activity within cases under open investigation Establish an internal processing timeframe requirement for case resolution by Prosecutors 	<p>SATISFACTORY</p>

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Scope Area	Result	Rating
<p>Objective B: Verify that controls over critical Enforcement Administration processes are operating effectively, efficiently, and according to Texas law and TDLR policy.</p>	<p>Controls appear to be in place; however, all are not consistently executed and in a timely manner. We identified the following opportunities for improvement:</p> <ul style="list-style-type: none"> • Ensure that all State requirements for processing motions for rehearing are consistently followed • Ensure that Motions are acted upon in a timely manner and in accordance with the Texas Government Code 	<p>STRONG</p>
<p>Objective C: Evaluate access controls within the Legal Files system to ensure that access is restricted to appropriate individuals.</p>	<p>Access to TDLR's Legal Files program is not appropriately restricted for the individuals identified. TDLR should perform the following:</p> <ul style="list-style-type: none"> • Remove inappropriate access to program windows within Legal Files • Review user access permissions to program windows within Legal Files at least annually to ensure that access is appropriate and aligns with the roles and duties of the assigned end user 	<p>SATISFACTORY</p>

Conclusion

Based on our evaluation, the Enforcement Administration has procedures and controls in place to conduct effective management of the significant processes within TDLR. However, we identified six opportunities to improve the effectiveness of the controls within the enforcement administration process.

Specifically, TDLR should ensure that all State requirements for processing motions for rehearing are consistently followed. In addition, TDLR should ensure that user access to the Legal Files program is appropriate by limiting users' access rights based on current job function. TDLR should also review user access permissions to program windows within Legal Files at least annually to ensure that access is appropriate and aligns with the roles and duties of the assigned end user.

Further, TDLR should implement monitoring procedures to ensure that procedures are executed in a timely manner. The reviews of complaint intake handling, pending complaints, and cases should be reviewed every two weeks to ensure they are processed according to TDLR's goals and guidelines. TDLR should also establish an internal processing timeframe requirement for case resolution by Prosecutors.

Follow-up procedures will be performed in Fiscal Year 2019 to evaluate the effectiveness of remediation efforts taken to address the findings identified.

**Detailed Procedures Performed, Findings,
Recommendations and Management
Response**

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Detailed Procedures Performed, Findings, Recommendations and Management Response

Our procedures included interviewing key personnel within the Enforcement Administration to gain an understanding of the current processes in place, examining existing documentation, evaluating the internal controls over the process, and testing the effectiveness of the controls in place. We evaluated the existing policies, procedures and processes in their current state.

Objective A: Control Design

Determine whether internal controls over Enforcement Administration processes are in place to ensure that consistent processes are implemented and designed effectively to address the risks within the associated sub-processes and to ensure effective operations.

1. **Procedures Performed:** We gained an understanding of current Enforcement Administration processes by conducting interviews and walkthroughs with key personnel reviewing existing policies, procedures, and sample documents used by Enforcement Division personnel and assessing TDLR's operating procedures to identify key controls. We examined key controls over the following sub-processes:

- Complaints Intake
- Investigations
- Prosecutions
- Enforcement Actions
- Motions for Rehearing

We evaluated the controls identified against expected controls to determine whether the identified Enforcement Administration processes and internal controls are sufficiently designed to mitigate the critical risks associated with the with Enforcement processes. We identified any unacceptable risk exposures due to gaps in the existing control structure as well as opportunities to strengthen the effectiveness and efficiency of the existing procedures.

Results: We identified 21 controls in place over the significant activities within Enforcement Administration. We identified four findings where improvements in the process can be made.

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Process Area	Control Coverage	Findings / Observations
Enforcement Administration Processes		
Complaints Intake	6	Finding 1 Finding 2
Investigations	5	Finding 1 Finding 3
Prosecutions	6	Finding 4
Enforcement Actions	5	
Motions for Rehearing	3	
Total	25*	

***Duplicate Control:** The total number of identified controls is 21. However, based on their design, controls address risks in multiple processes. We have mapped the 21 unique controls to the processes in which they mitigate the risks within the processes.

Finding 1 – MODERATE – Review of Intake Procedures

The Enforcement Division does not have review procedures in place to ensure that all complaint intake procedures such as initial determination of TDLR jurisdiction, and sending of Opening and Closing Letters are consistently performed.

Upon receipt of a complaint, Intake Administrative Assistants perform a cursory review to determine if the complaint relates to an occupation, business, or facility regulated by TDLR. If determined to be under TDLR's jurisdiction, the complaint is assigned to an Intake Legal Assistant for further review. If the Intake Administrative Assistant determines that the complaint does not fall within TDLR's jurisdiction, the complaint is logged and a Closing Letter is sent to the complainant without additional review to ensure that jurisdiction was appropriately assessed and Closing Letters were sent.

Upon determination that a non-departmental complaint is within TDLR's jurisdiction and a violation has occurred, the Intake Legal Assistant sends an Opening Letter to complainant and respondent (if applicable) to notify them of the investigation and assigns a case to the Investigation team in Legal Files. Currently, there is no review in place to ensure that Opening Letters are sent to appropriate individuals.

We reviewed a sample of 50 out of 31,159 complaints submitted from November 1, 2016 through May 31, 2018 and determined that a Closing Letter was not sent to 3 complainants.

In addition, we reviewed 50 out of 17,839 investigated complaints from November 1, 2016 through May 31, 2018 and identified 2 instances in which TDLR was unable to provide evidence that an Opening Letter was sent to the appropriate parties.

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Recommendation: TDLR should implement a review of complaint intake handling to ensure complaints are processed accurately and completely. Intake Management should periodically review a sample of complaints closed by Intake Administrative Assistants to verify that jurisdiction was appropriately determined, and Closing Letters were sent. Intake Management currently conducts quarterly audits of open cases to ensure that staff has processed complaints appropriately, but the audits only include those complaints that have been opened for investigation. The review of all complaint dispositions should be included in the audit. Additionally, Intake Management should review the disposition of all complaints at least every two weeks to ensure complaints are addressed within TDLR's two-week goal.

Management's Response: Management agrees that in the identified instances, existing procedures were not followed in sending closing and opening letters, and that currently there is no standard procedure for double-checking the administrative assistants' initial determinations regarding lack of jurisdiction. Management will modify the existing procedure for performing quarterly validation audits of the intake process to include a sampling of jurisdictional and non-jurisdictional complaints to evaluate whether jurisdiction was properly determined, and whether proper correspondence was provided. Additionally, rather than auditing 61 cases at the end of each quarter, we will spread them across the quarter and audit at least 10 complaints every two weeks, to ensure that any errors are identified and corrected promptly.

Responsible Party: Intake Manager

Implementation Date: December 1, 2018

Finding 2 – MODERATE – Timeliness of Intake Procedures

TDLR does not have adequate procedures in place to monitor timeliness of Intake complaint processing. Currently, the Research and Analytics Specialist reviews the Cases and Complaints Pending Report to monitor the average days complaints are open. The report is reviewed on monthly basis which does not align with the two-week processing goal.

We reviewed a sample of 50 out of 31,159 complaints submitted from November 1, 2016 through May 31, 2018 and determined that Intake staff did not initiate processing with the two-week goal for 12 complaints. Processing times for these complaints range from 16 to 54 days.

Recommendation: Management should increase the frequency of a review of pending complaints to every two weeks in order to be able to effectively monitor the average days complaints are open and ensure complaints are addressed within TDLR's two-week goal.

Management's Response: Management agrees the identified complaints were not processed within a two-week timeframe. Management will continue the current process to monitor the status of complaints that have not been processed. Legal Assistants will continue to report weekly to management on the number of complaints where processing has not been initiated and the date of the oldest compliant without initial processing. Additionally, as recommended by the Auditor, Management will review the Cases and Complaints Pending Report every two weeks and follow up promptly as needed to further reduce the backlog of complaints caused by the transfer of 16 programs from other agencies, including over 600 open cases, over the last two years.

Responsible Party: Intake Manager

Implementation Date: December 1, 2018

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Finding 3 – MODERATE – Timeliness of Investigations

TDLR does not have a process in place to monitor the activity within cases under current investigation to ensure timely resolution. Currently, the Enforcement Division monitors cases to identify those which have been open for an extended period of time in order to prioritize the completion of those investigations. However, the monitoring is only based on the number of days the case is open and does not include an evaluation of the activity within the case to further prioritize investigations with no activity.

We reviewed a sample of 50 out of 17,389 cases opened between November 1, 2016 and May 31, 2018 and determined that investigation procedures were not completed within TDLR's 60-day goal for 17 cases from the sample. Of the 17 cases, 4 are currently open with little to no activity since the initiation.

Recommendation: TDLR should implement procedures to monitor the activity within cases under active investigation. As part of the current monitoring procedures, TDLR staff should identify cases that had no activity for the extended periods of time. These cases should be further prioritized within the cases that have remained opened for extended periods of time.

Management's Response: Management agrees that the identified investigations were not completed within the 60-day timeframe which we set as a section goal. Instead of distributing cases across multiple Investigators, Management has recently selected three investigators to work exclusively on the more complex health-related cases. This specialization will allow the three investigators to gain expertise in the new programs and thereby move cases more quickly. This will also allow the other investigators to focus on cases in the programs they are more familiar with, and move those cases more quickly. Management will monitor the individual age of each case as well as continue to monitor the average caseload ages, and place a great emphasis on cases that have no activity for extended period of time. Lead Investigators will also conduct one-on-one meetings every two weeks with Investigators who show a pattern of average caseloads above 60 days.

Responsible Party: Investigations Manager

Implementation Date: October 1, 2018

Finding 4 – MODERATE – Timeliness of Prosecutor Resolutions

TDLR does not have a required timeframe in place for case resolution by Prosecutors. When assigned a case, a Prosecutor reviews the case investigation to determine the appropriate case resolution, such as potentially taking formal action and issuing a Notice of Alleged Violation (NOAV). Currently, there are no processing time guidelines or requirements in place to ensure that these procedures are completed in a timely manner.

We reviewed a sample of 50 out of 17,389 cases opened between November 1, 2016 and May 31, 2018 and determined that initial prosecution procedures were not completed timely (within 60 days) for 9 cases from the sample. We reviewed the number of days lapsed between the date the case was assigned to a Prosecutor to the date the Prosecutor determined the case resolution through either issuing a NOAV or closing the case without taking formal enforcement action. Processing times for these cases ranged from 66 to 362 days.

Recommendation: Management should establish internal processing timeframe requirement for case resolution by Prosecutors. Additionally, Management should continue to review the Cases and Complaints Pending Report to monitor the average days cases are open and work with Prosecution staff to improve processing times of case forwarded to Prosecution.

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Management's Response: Management agrees that the identified cases were not resolved by a Prosecutor within 60 days. Management will establish processing timeframe requirements for the Prosecutors, as recommended by the Auditor. Management will continue to review the Cases and Complaints Pending Report to monitor the average days cases are open to ensure that complaints show continuous progress unless there are unavoidable timing delays, such as waiting on responses from respondents or waiting on results from a hearing.

Responsible Party: Prosecution Manager

Implementation Date: December 1, 2018

Objective B: Control Testing

Verify that controls over critical Enforcement Administration processes are operating effectively, efficiently and according to Texas law and TDLR policy.

1. **Procedures Performed:** We obtained a system-generated report of complaints entered into Legal Files between November 1, 2016 and May 31, 2018. We selected a sample of 40 of 31,130 complaints to be included in our sample selection. In addition, we obtained a listing of complaints not entered into Legal Files between November 1, 2016 and May 31, 2018. We selected a sample of 10 of 29 complaints not entered into Legal Files to include in our sample selection for Complaints testing. For each selected sample item, we verified the following:

- Complaint jurisdiction is appropriately determined
- Complaint is adequately documented and maintained by the agency
- Complaint is processed according to TDLR procedures
- Complaint is processed in a timely manner
- Complainants receive appropriate correspondence
- Complaints are appropriately closed or referred to investigations or prosecution

Results: Fifteen of the 50 complaints tested were not processed timely or did not receive proper documentation:

- 12 complaints were not processed timely
- 3 complaints did not receive appropriate correspondence

Finding 1 – MODERATE – Review of Intake Procedures

Finding 2 – MODERATE – Timeliness of Intake Procedures

2. **Procedures Performed:** We obtained a system-generated report of all cases opened between November 1, 2016 and May 31, 2018. We selected a sample of 50 of 17,389 cases with a case status of "Open for Investigation" and verified the following:

- Investigated complaints have complete information and documentation
- Individuals involved with the complaint are notified of investigation initiation
- Investigation status is provided quarterly to affected individuals by TDLR staff
- All required investigation procedures were completed by investigators
- Investigations are completed in a timely manner (60 calendar days)

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Results: Nineteen of the 50 investigations did not receive appropriate documentation or were not processed timely:

- 2 investigations did not have documentation of Opening Letters sent to respondents by Intake Legal Assistants
- 17 investigations were not completed timely. Of the 17 investigations, 4 are currently open with little to no activity since the initiation

Finding 1 – MODERATE – Review of Intake Procedures – Two Opening Letters

Finding 3 – MODERATE – Timeliness of Investigations – 17 untimely investigations

3. **Procedures Performed:** We obtained a system-generated report of all cases closed between November 1, 2016 and May 31, 2018. We selected a sample of 50 of 17,389 cases and verified the following:

- Investigations are closed or referred to prosecution appropriately (transaction summary/closing letter)
- Case resolution is reviewed and approved by appropriate personnel (transaction summary)
- Cases are resolved in a timely manner (transaction summary)
- Recommended penalties and sanctions are adequately reviewed and approved prior to issuance, and align with established guidelines (NOAV Letter, Enforcement Plan)
- Notice of Alleged Violation (NOAV) is complete, accurate, and provided timely (TDLR Procedures)
- Penalties and sanctions are enforced by TDLR's Legal Counsel

Results: Nine out of the 50 cases reviewed were not resolved, resulting in extended processing times of 66 to 362 days within TDLR's 60-day goal.

Finding 4 – MODERATE – Timeliness of Prosecutor Resolutions

4. **Procedures Performed:** We obtained a system-generated report of all Motions for Rehearing received between November 1, 2016 and May 31, 2018. We selected a sample of 25 cases and verified the following:

- Motions for Rehearing met the criteria listing in the state code
- Motions for Rehearing are processed in a timely manner
- Respondent is notified of the final decision

Results: Two out of 25 samples reviewed did not have documentation to support processing within the timeframe required by the state.

Finding 5 – MODERATE – Timeliness of Motions for Rehearing Processing

We reviewed a sample of 25 out of 56 Motions for Rehearing received from November 1, 2016 through May 31, 2018 and determined that 2 cases were not processed timely. Currently, the General Counsel Legal Assistants creates task notifications in Legal Files to track the timeframe requirements established in the Texas Government Code for processing Motions for Rehearing. However, more than 65 days lapsed without agency action between the date the Order was issued and the date the Notification Letter was sent to the respondent.

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Per Tex. Gov't Code Sec. 2001.146(e) "A state agency or a person authorized to act for the agency may, on its own initiative or on the motion of any party for cause shown, by written order extend the time for filing a motion or reply or taking agency action under this section, provided that the agency or person extends the time or takes the action not later than the 10th day after the date the period for filing a motion or reply or taking agency action expires." Further, the code states that agency must act on the motion within 55 days from the date the Order was issued.

Recommendation: TDLR should ensure that all State requirements for processing motions for rehearing are consistently followed. The General Counsel Legal Assistants should modify their task notifications in Legal Files to ensure that Motions are acted upon in a timely manner and in accordance with the Texas Government Code.

Management's Response: Management agrees. Going forward, the Office of General Counsel (OGC) will ensure that notices sent pursuant to this section are within the statutory time frame and we will modify the task notifications in Legal Files accordingly. Additionally, under Section 2001.147, Government Code, the Department may extend the time to act on a motion for rehearing by agreement with the Respondent, and there is no specific time frame for doing so. Going forward, OGC will also ensure that any notices sent pursuant to Section 2001.147 clearly reference the respondent's agreement and the statutory authority.

Responsible Party: General Counsel
Implementation Date: October 1, 2018

Objective C: Access Testing

Evaluate access controls within the Legal Files system to ensure that access is restricted to appropriate individuals.

Procedures Performed: We examined system generated reports for the listing of group security rights for each of the security groups utilized by Enforcement and General Counsel to verify user access is appropriately restricted. In addition, we reviewed the individual user access settings for each of the end users assigned to the Administrative Super Groups to verify user access is appropriately restricted.

We also verified that user access is reviewed periodically to ensure user access rights for active users are appropriate. We identified four users with inappropriate access.

Finding 6 – MODERATE – Inappropriate User Access

We evaluated user access permissions in Legal Files and determined that access is inappropriate, based on the user's job title and function, for the following individuals:

- Two General Counsel Legal Assistants have access to modify the Investigations Report program window utilized by Investigators
- Director of Enforcement and Prosecutions Manager have access to modify the Investigations program windows utilized by Investigators

In addition, we determined that formal periodic reviews of user access are currently not performed by the Enforcement Division.

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Recommendation: The Enforcement Division should remove inappropriate access to program windows within Legal Files. Access to modify and edit program windows should be restricted based on the end user's current job function. Two General Counsel Assistants, Director of Enforcement and the Prosecutions Manager should have read-only access to Investigation program windows in Legal Files.

In addition, Enforcement Administration Management should review user access permissions to program windows within Legal Files at least annually to ensure that access is appropriate and aligns with the roles and duties of the assigned end user.

Management's Response: Management agrees. Actions recommended by the Auditor to correct inappropriate user access have been completed. On August 24, 2018, Management Analyst modified the accounts of the identified staff and removed their access to edit investigation reports. Additionally, Management will review user access permission to program windows at least annually.

Responsible Party: Management Analyst

Implementation Date: March 1, 2019

Appendix

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The appendix defines the approach and classifications utilized by Internal Audit to assess the residual risk of the area under review, the priority of the findings identified, and the overall assessment of the procedures performed.

Report Ratings

The report rating encompasses the entire scope of the engagement and expresses the aggregate impact of the exceptions identified during our test work on one or more of the following objectives:

- Operating or program objectives and goals conform with those of Texas Department of Licensing and Regulation
- Texas Department of Licensing and Regulation objectives and goals are being met
- The activity under review is functioning in a manner which ensures:
 - Reliability and integrity of financial and operational information
 - Effectiveness and efficiency of operations and programs
 - Safeguarding of assets
 - Compliance with laws, regulations, policies, procedures and contracts

The following ratings are used to articulate the overall magnitude of the impact on the established criteria:

Strong

The area under review meets the expected level. No high risk rated findings and only a few moderate or low findings were identified.

Satisfactory

The area under review does not consistently meet the expected level. Several findings were identified and require routine efforts to correct, but do not significantly impair the control environment.

Unsatisfactory

The area under review is weak and frequently falls below expected levels. Numerous findings were identified that require substantial effort to correct.

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Risk Ratings

Residual risk is the risk derived from the environment after considering the mitigating effect of internal controls. The area under audit has been assessed from a residual risk level utilizing the following risk management classification system.

High

High risk findings have qualitative factors that include, but are not limited to:

- Events that threaten TDLR's achievement of strategic objectives or continued existence
- Impact of the finding could be felt outside of TDLR or beyond a single function or department
- Potential material impact to operations or TDLR's finances
- Remediation requires significant involvement from senior TDLR management

Moderate

Moderate risk findings have qualitative factors that include, but are not limited to:

- Events that could threaten financial or operational objectives of TDLR
- Impact could be felt outside of TDLR or across more than one function of TDLR
- Noticeable and possibly material impact to the operations or finances of TDLR
- Remediation efforts that will require the direct involvement of functional leader(s)
- May require senior TDLR management to be updated

Low

Low risk findings have qualitative factors that include, but are not limited to:

- Events that do not directly threaten TDLR's strategic priorities
- Impact is limited to a single function within TDLR
- Minimal financial or operational impact to the organization
- Require functional leader(s) to be kept updated, or have other controls that help to mitigate the related risk