

TEXAS DEPARTMENT OF LICENSING AND REGULATION
Austin, Texas

ANNUAL INTERNAL AUDIT REPORT

Fiscal Year 2013



TEXAS DEPARTMENT OF LICENSING AND REGULATION
Austin, Texas

Annual Internal Audit Report
Fiscal Year 2013

TABLE OF CONTENTS

	<u>Page</u>
Internal Auditor's Report	1
Introduction	2-3
Internal Audit Objectives	4
Executive Summary	
Enforcement Division	
Background	5-12
Audit Scope/Objective	12-13
Property Tax Professionals	
Background	14-19
Audit Scope/Objective	20 -21
I. Compliance with House Bill 16: Posting the Internal Audit Plan, Internal Audit Annual Reports and Other Audit Information on TDLR's website	21
II. Internal Audit Plan for Fiscal Year 2013.....	21-23
III. Consulting and Nonaudit Services Completed.....	23
IV. External Quality Assurance Review	23
V. Observations/Findings and Recommendations	24-27
VI. Proposed Internal Audit Plan for Fiscal Year 2014	28
VII. External Audit Services Procured in Fiscal Year 2013.....	28
VIII. Reporting Suspected Fraud and Abuse	28
IX. Organizational Chart	28

Garza/Gonzalez & Associates

CERTIFIED PUBLIC ACCOUNTANTS

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

We performed tests of management's assertion about the effectiveness and efficiency of the internal control structure over the Enforcement Administration, Fines, and Penalties and the Property Tax Professionals Areas of the Texas Department of Licensing and Regulation (TDLR) and its compliance with the Texas Government Code, the Texas Administrative Code; and, TDLR's established policies and procedures, as applicable to the Enforcement Administration, Fines, and Penalties and Property Tax Professionals Areas, for the period ending June 30, 2013.

The results of our tests disclosed that such controls were adequate and no material instances of noncompliance were noted; however, we noted certain matters, which are included in this report, that are opportunities for strengthening internal controls and operating efficiency; and, ensuring compliance with TDLR's established policies and procedures. We also performed a follow-up on findings presented in the prior year annual internal audit report and this report reflects the implementation status of those matters; and, includes all information required for the Annual Internal Audit Report.

We have discussed the comments and recommendations from the audits performed noted above and the implementation status from the follow-up performed, with various TDLR personnel; and, will be pleased to discuss them in further detail; to perform an additional study of these matters; or, to assist you in implementing the recommendations.

*Garza/Gonzalez
& Associates*

August 7, 2013

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

INTRODUCTION

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

TDLR's responsibilities include regulating 27 diverse programs with 155 different license types and the oversight of more than 600,000 licensees.

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

The Texas Commission of Licensing and Regulation (Commission) is the governing board and policy-making body of TDLR. The 7 public members of the Commission are appointed to staggered 6 year terms by the Governor with the consent of the Senate. The role of the Commission is to:

- select and supervise the executive director;
- set policy for the agency;
- approve TDLR's strategic plan, operating budget, and requests for funding;
- set fees to cover program costs;
- adopt and repeal rules; and,
- impose fines and sanctions for violations of laws, rules, and orders.

In addition to the Commission, there are Advisory Boards that serve 19 programs regulated by TDLR. Advisory board members provide technical knowledge and industry expertise, giving the Commission real-world insight into the occupations regulated by TDLR. Commission members serve as liaisons between the Commission and each Advisory Board to gain a better understanding of these industries. These Boards meet as necessary to study, review, and make recommendations to the Commission on:

- rules and technical standards;
- examination development;
- continuing education requirements; and,
- other trends affecting their regulated industries.

2013 Internal Audit Plan

Following are the internal audits and other functions performed, as identified in TDLR's approved 2013 Internal Audit Plan:

- Enforcement Administration, Fines, and Penalties
- Property Tax Professionals
- Cash Receipts and Fee Processing
- Fixed Assets Management
- Follow-up of Prior Year Internal Audits
- Other Tasks

The report on Cash Receipts and Fee Processing was issued on January 25, 2013; and, the report on Fixed Assets Management was issued on April 15, 2013.

This report contains the results of our audits of the Enforcement Administration, Fines, and Penalties and the Property Tax Professionals Areas; reflects the follow-up performed in the current year; and, meets all applicable provisions of the State of Texas Internal Audit Annual Report requirements.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

INTERNAL AUDIT OBJECTIVES

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

- **Reliability and Integrity of Financial and Operational Information** – Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Policies, Procedures, Laws, Regulations, and Contracts** – Review the systems established to ensure compliance with those policies, procedures, laws, regulations, and contracts which could have a significant impact on operations and reports, and determine whether the organization is in compliance.
- **Safeguarding of Assets** – Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Effectiveness and Efficiency of Operations and Programs** – Appraise the effectiveness and efficiency with which resources are employed.
- **Achievement of the Organization's Strategic Objectives** – Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

EXECUTIVE SUMMARY

Enforcement Administration, Fines and Penalties

Background

The Enforcement Administration, Fines and Penalties Area (Area) of the Texas Department of Licensing and Registration (TDLR) is comprised of the following sections: (1) Intake, (2) Investigation, and (3) Prosecution.

Area Composition

The Area is managed by the Area Director (Director).

The Intake Section is comprised of twelve (12) Legal Assistants and three (3) Administrative Assistants who report to the Intake Supervisor.

The Investigation Section is comprised of the following regions: Austin; Central and North; and, East and South. Each region has its own Supervisor who supervises their assigned Investigators. The following lists the number of assigned Investigators for each region:

- Austin – 14 Investigators
- Central and North – 13 Investigators
- East and South – 5 Investigators

The Prosecution Section is comprised of 13 Attorneys 2 of which are Lead Attorneys; and, 19 Legal Assistants and 4 Administrative Assistants who are supervised by a Legal Assistant Supervisor.

Governance

The Area processes consumer complaints and complaints from periodic inspections over licensed occupations and industries within the state of Texas. The Area performs these processes and investigations to ensure that their objectives are being met and that the licensees are in compliance with §51 of the Texas Occupations Code (TOC); Title 16, Part 4, §55-94 of the Texas Administrative Code (TAC) and the applicable statute of each industry.

Area Database Computer System

The Area utilizes “*Legal Files*” a software program to enter, update and maintain a database of complaints and investigations. The database holds all significant documentation and correspondence pertaining to each case. Authorized personnel can easily navigate and access information needed via defined searches or through the electronic tabs.

General Complaint Process

The Area processes complaints from different types of sources. The process is as follows:

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Intake Section

The Area receives complaints either by phone, mail, TDLR website submission, or by email.

Upon receipt of a complaint, the Intake Section performs the following according to the incoming source:

- *Phone* – The Administrative Assistant (AA) encourages the Complainant to submit a written complaint via mail, TDLR website, or by email; however, on a very seldom basis the Complainant prefers to remain on the line and verbally submit their complaint. The AA performs the following:
 - Asks questions to get the basic story: who, what, when, where, why and how. This should include all questions necessary for determining whether TDLR has jurisdiction over the matter, and whether a violation of TDLR statutes or rules may have occurred. If it is clear from the Complainant's description of the events that TDLR does not have jurisdiction, there is no need to proceed with the remaining steps below. In situations where another agency has jurisdiction over the matter, the caller should be referred to that agency.
 - Obtain all available identifying information for the Complainant, the respondent, and any witnesses known to the Complainant. This will include names, addresses, telephone numbers and email addresses.
 - Request the caller provide copies of any available documentation related to the complaint.
 - Provide the caller with the Legal Assistant's name and phone number.
 - Inform the caller the information and documentation will be reviewed to determine if an investigation is warranted.

Upon taking a complaint call, it is common practice for an AA to go on to the TDLR website and fill out the required fields that a Complainant would be asked to submit when filing a complaint using the TDLR website. By doing this, it will help ensure the collection of all required information to warrant further review of the complaint.

- *TDLR Website/Email* – If received via e-mail, the AA will send a reply email to the Complainant acknowledging receipt of the complaint. The Intake Section's goal is to send the reply email within 2 working days after the receipt of the complaint. Website complaints generate an electronic acknowledgement and tracking number and do not require additional action from the Intake Section.
- *Mail* – The AA will stamp the date of receipt on the complaint. They will also prepare an Acknowledgement Postcard and send it to the Complainant acknowledging receipt of the complaint. The goal of the Intake Section is to send these Postcards within the first business day after the receipt of the complaint.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Information from these complaints are gathered and are input into "Legal Files" by the AA. Upon doing so, a unique case number is generated and assigned. Cases are then forwarded to the Legal Assistants (LA) for further review.

LAs review the complaints to determine whether an investigation is warranted. The following questions provide guidance for the LAs in determining whether the case will be forwarded to an Enforcement Investigator:

- Does the Complainant provide enough information to understand what happened?
- Does TDLR have jurisdiction over the people and the events that are the subject of the complaint?
- Does the Complainant clearly identify the Respondent?
- Did the event, described in the complaint, occur within the last 2 years?
- Is all available documentation attached to the complaint?

During this time, the LAs may request additional information from the Complainant to obtain a full understanding of the events and/or substantiate claims made in the complaint. Such letters are commonly referred to as an RFI (Request for Information) by the Area.

At the LAs discretion, if sufficient responses are obtained from the recommended questions, the LA will perform the following:

- Prepare and send an Opening Letter to the Respondent. The Opening Letter informs the Respondent that a complaint has been filed against them. The Opening Letter provides information on TDLR's process for reaching a resolution and provides TDLR's contact information to submit questions and concerns.
- Update the case in 'Legal Files' according to any new information learned, documentation obtained, or correspondence held with the Complainant and/or others parties involved.

Once the LA has performed these tasks, they will consult the assignment spreadsheet for assignment of the case to an Investigator.

Should the LA determine that an investigation is not warranted, a letter is sent to the Complainant informing them of the Area's decision and the grounds for the decision. If the LA determines a complaint is within the jurisdiction of another state agency, the Intake Section should forward the complaint to the appropriate state agency, along with a letter explaining why it was sent.

Anonymous Complaints

Upon filing a complaint, a Complainant is given the option to submit the complaint anonymously. There is inherent difficulty in processing anonymous complaints because the Complainant cannot be contacted if additional information is needed and therefore the lack of necessary information frequently leads to the case being closed.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Investigation Section

The Investigator assigned to the case begins the investigation by obtaining an understanding of the circumstances that have led the case to the Investigation phase. Once they have reviewed the case, they will proceed in scheduling interviews with all parties involved. It is recommended that interviews are conducted in the following order: Complainant, Collateral Witnesses, and Respondent. Once the first round of interviews is conducted, follow up interviews are conducted if necessary. The investigator examines evidence brought forward and performs research using the internet and other third party sources where available. The Enforcement Manual is available to the Investigator to use suggested questions and procedures based on the type of Industry (i.e. Air Conditioning, Electricians, Cosmetology, etc.).

Once the Investigator has examined the evidence and information obtained via interviews and research, the Investigator will proceed in preparing the Investigation Report. The Investigation Report should contain the following:

- Basic information and identification of all parties involved; (i.e. Complainant and Respondent).
- Background information/description of the case.
- Summary of the investigation.
- Information regarding interviews with witnesses.
- Presentation of documents and photographs.

Once an Investigation Report is published, it cannot be altered. Should new findings arise subsequent to the published Investigation Report or during additional investigations (requested to be conducted by the assigned Prosecutor) then a 'Supplemental Investigation Report' must be prepared.

At the completion of the Investigator's report, the Investigators' Administrative Assistant will update the case in "Legal Files" to accurately represent the status of the case. The case will then be forwarded to the assigned Prosecutor in the Prosecution section.

Prosecution Section

The Prosecution Section processes each case to closure. Upon receiving a case, the Prosecutor will review the Investigation Report and related data maintained in "Legal Files" to see if sufficient evidence was obtained to prove a violation has occurred. Given the results of their review, the Prosecutor will do one of the following:

- Prepare and issue a Notice of Alleged Violation (NOAV) to the Respondent.
- Close the case without issuing a Notice of Alleged Violation.
- Return the case for supplemental investigation.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

NOAV

The NOAV is drafted by a Prosecution Legal Assistant (PLA). The NOAV normally contains:

- The Respondent's name.
- The law that was violated and the alleged violation.
- The alleged violations, penalty amount requested, sanction, corrective action and/or restitution.
- The terms of any settlement offer along with the deadline of the offer.
- Default notice information.
- The twenty (20) day deadline for a response to the NOAV.

When a settlement offer is included with the NOAV the Respondent may simply accept and sign the offer and return it to TDLR.

Once the draft has been composed by the PLA, the NOAV is then forwarded to either the Prosecutor or Director to review and proof read. It is then returned to the PLA to update and amend per the Prosecutor's or Director's review. The final NOAV will be signed by the Prosecutor and sent to the Respondent via certified mail to ensure proper delivery.

Once the NOAV has been delivered, the Respondent has twenty (20) days to respond to the NOAV. If the Respondent responds to the NOAV within the established time frame, the Prosecutor is given authority within the law to enter into an "Agreed Order" or receive full payment for the violation. Unlike a non-licensed Respondent, a licensed Respondent has incentive to respond to the NOAV because of the effect on licensure and ability to practice, therefore, many licensed Respondents enter into an Agreed Order.

If an Agreed Order is to be executed, the case in "Legal Files" remains open until the initial payment is made. The case is then closed and remains closed as long as subsequent payments due to TDLR are received timely. The receipt of payments on an Agreed Order is monitored by the PLAs using "Legal Files" to track progress of the payment plan in accordance with the Agreed Order.

If the Respondent does not respond within thirty (30) days to the NOAV, the case will be closed by Default and full penalties and sanctions are applied.

The following table lists the Industries which are under TDLR's jurisdiction and the applicable laws that govern the licensed entities. The Area uses the statutes in determining whether violations have been committed and how to proceed in disciplinary action. The public has access to these laws via TDLR's website.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Industry	Applicable Laws
Air Conditioning	TOC, § 1302 TAC, § 75
Auctioneers	TOC, § 1802 TAC, § 67
Barbers & Barber Schools	TOC, § 1601, § 1603 TAC, § 82
Boilers	Texas Health and Safety Code, § 755 TAC, § 65
Combative Sports	TOC, § 2052 TAC, § 61
Cosmetologists & Cosmetology Schools	TOC, § 1602, § 1603 TAC, § 83
Electricians	TOC, § 1305 TAC, § 73
Elevators, Elevator Contractors, & Elevator Inspectors	Texas Health & Safety Code, § 754 TAC, § 74
Elimination of Architectural Barriers	Texas Government Code, § 469 TAC, § 68
Industrialized Housing and Buildings	TOC, § 1202 TAC, § 70
Licensed Court Interpreters	Texas Government Code, § 57 TAC, § 80
Legal Service Contracts	TOC, § 953 TAC, § 57
Polygraph Examiners	TOC, § 1703 TAC, § 88
Property Tax Consultants	TOC, § 1152 TAC, § 66
Property Tax Professionals	TOC, § 1151 TAC, § 94
Registered Accessibility Specialist	Texas Government Code, § 469 TAC, § 68
Rental Agreement Loss Damage Waivers	Texas Business & Commerce Code, § 35 TAC, § 58
Service Contract Providers	TOC, § 1304 TAC, § 77
Staff Leasing Services	Texas Labor Code, § 91 TAC, § 72
Temporary Common Worker Employers	Texas Labor Code, § 92 TAC, § 64
Vehicle Booting and Immobilization	TOC, § 2308 TAC, § 89
Vehicle Protection Product Warrantors	TOC, § 2306 TAC, § 71
Vehicle Storage Facilities	TOC, § 2303, § 2308 TAC, § 85
Vehicle Towing	TOC, § 2308 TAC, § 86
Water Well Drillers	<i>Drillers:</i> TOC, § 1901 TAC, § 76 <i>Installers:</i> TOC, § 1902 TAC, § 76
Weather Modification	Texas Agriculture Code, § 301 TAC, § 79

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Certain types of cases are processed differently based on the source of the case, as follows:

Departmental / Inspection Cases

These cases result from inspections periodically conducted by the TDLR inspection staff. The Respondent is aware of their violations through the Inspection Report provided with each inspection. The TDLR Inspector forwards the results of the inspection to an AA in the Intake Section. The case is then opened with the appropriate information in "Legal Files". A significant difference from other cases is that these cases do not go through the Investigation Section. Since the violation has been witnessed by a TDLR Inspector further investigation is unwarranted. Once the Intake Section's AA has established and updated the case in "Legal Files", it is then forwarded to the Prosecution Section for review and further processing.

Sting Operation Cases

Certain complaint cases result from undercover sting operations conducted by the Investigators. Similar to the Inspection cases, these cases are entered into "Legal Files" by the Intake Section's AA, and are forwarded to the Prosecution Section for review and further processing.

Criminal Background Cases

A large volume of cases are referrals from the licensing process since individuals seeking any type of license with the state of Texas, under the jurisdiction of TDLR, are subject to a Criminal Background Check. When an applicant discloses a criminal background on a license application, or if the required background check results in an undisclosed offense, the application is forwarded to the Area for an evaluation of the offense. These types of cases are sent directly to the Prosecution Section, who may then instruct an Investigator to perform specific procedures for evaluation of the case. When sufficient data is obtained, the Prosecutor will perform a review of the criminal record of the applicant and use their professional judgment in relation to the applicable statute to render a decision to either grant or recommend denial of the licensure of the applicant.

Quarterly Status Reports

§51.252 (c) of the TOC requires the Area to notify the Complainant, and each person who is involved in the complaint, of the status of the investigation unless the notice would jeopardize an undercover investigation. To adhere to this statute, the Area sends out Quarterly Status Reports to Complainants informing them of the status of the case. These letters are sent out every ninety (90) days after the opening of a case in "Legal Files". Every day the Intake Section's generates a listing, from open cases in "Legal Files", which are due for a Quarterly Status Report. The Intake Section prepares a Quarterly Status Report accordingly and enters a note in each case that the report (letter) was sent.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

As of June 30, 2013; 8,993 cases have been opened in the current fiscal year and are in the following status as listed in "Legal Files":

No. of Cases	Status
4,235	Closed
1,956	Forwarded to Prosecution
1,306	Open for Investigation
1,492	Open to Prosecution
1	Returned for Additional Investigation
3	Returned to Prosecution

Through June 30, 2013 for the current fiscal year the completed orders were as follows:

Type	Number	Penalties Assessed	Penalties Collected	% Collected
Commission Order	80	\$ 81,600	\$ 9,525	11.67
Default	739	1,713,612	103,714	6.05
Agreed	1,977	2,225,353	1,856,486	83.42
	<u>2,796</u>	<u>\$ 4,020,565</u>	<u>\$ 1,969,725</u>	<u>48.99</u>

Audit Scope/Objective

The scope of our audit was the Enforcement Area (Area) of the Texas Department of Licensing and Regulation (TDLR). The objective of our audit was to gain an understanding of the Area and determine if the processes performed by the Area are in accordance with applicable sections of the Texas Occupations Code (TOC) and Texas Administrative Code (TAC); and, TDLR's established policies and procedures.

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

1. Reviewed and obtained an understanding of the laws and regulations provided in the TOC and the TAC, as applicable to the Area.
2. Obtained and reviewed the Area's written policies and procedures, collected available documentation, and conducted interviews to document formal/informal processes and controls.
3. Obtained a list of complaints processed during the period from September 1, 2012 to June 30, 2013 and randomly selected 65 complaints to test for the following attributes:
 - a. Obtained and reviewed the written complaints and required documentation to ensure all the required documentation was included in the "Legal Files" computer system.
 - b. Ensured the issuance of Opening Letters, when applicable.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

- c. Ensured that Quarterly Status Reports were prepared and sent out to the Complainants.
 - d. Ensured that the events within the complaints occurred no longer than 2 years before the complaint was filed.
 - e. Ensured that all correspondence, by all means, with parties involved in the complaint was documented in "Legal Files".
 - f. Using the date the complaint was filed, we ensured that the complaint was included in the applicable Performance Measure Report.
4. Obtained a list of investigations processed during the period from September 1, 2012 to June 30, 2013 and randomly selected 30 investigations to test for the following attributes:
 - a. Obtained and reviewed evidence and documentation to ensure interviews and research was conducted by the Area's Investigator.
 - b. Reviewed and ensured that all correspondence with parties involved was documented and included in the Area's complaint database system.
 - c. Ensured the preparation and/or completion of the Investigation Report.
 - d. Using the date the investigation was initiated, we ensured that each investigation was included in the applicable Performance Measure Report.
5. Obtained and reviewed the Enforcement Manual developed by the Area to ensure compliance with applicable statutes of the TOC and TAC.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

EXECUTIVE SUMMARY

Property Tax Professionals

Background

The Texas Department of Licensing and Regulation (TDLR) is responsible for registering and regulating Property Tax Professionals (PTP). The Texas Tax Professional Advisory Committee (Committee) was established to advise the Commission and TDLR regarding the PTP program.

The Texas Occupation Code (TOC) §1151.108 gives the Committee the authority to:

1. Recommend to the Commission rules and standards regarding technical issues relating to tax professionals;
2. Provide advice to the Commission regarding continuing education courses and curricula for registrants;
3. Provide advice to the Commission regarding the contents of any examination required by the Commission under this chapter; and
4. Educate, and respond to questions from the Commission and TDLR regarding issues affecting tax professionals.

The Committee consists of seven members appointed by the presiding officer of the Commission of which 2 are certified as registered professional appraisers, 2 are certified as registered Texas collectors or registered Texas assessors, and 3 represent the public. Members serve 6 year terms, with the terms of 1 or 2 members expiring on March 1st of each odd-numbered year.

TOC §1151 gives the Commission, with the advice of the Committee, the authority to adopt and enforce rules necessary for the performance of TDLR's duties and establish standards of professional practice, conduct, education, and ethics for appraisers, assessors, and collectors. TOC §1151.101 allows the Commission to establish fees under this chapter in amounts reasonable and necessary to cover the costs of administering the programs and activities under this chapter.

Registration

This process occurs under TDLR's Licensing Division (Division). The Division is comprised of a Director of Licensing, 6 Licensing Program Supervisors, and 47 licensing specialist positions. The Division is divided into 6 sections, which are responsible for licensing and registering a specific set of programs. The Business and Occupations Section (Section) of the Division is responsible for registering PTPs. This Section is comprised of 1 Licensing Program Supervisor and 8 Licensing Specialists, who are responsible for licensing 6 different license types.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

New Applications

TOC §1151.151 requires the following people register with TDLR:

1. The chief appraiser of an appraisal district, an appraisal supervisor or assistant, a property tax appraiser, an appraisal engineer, and any other person authorized to render judgment on, recommend, or certify an appraised value to the appraisal review board of an appraisal district;
2. A person who engages in appraisal of property for ad valorem tax purposes for an appraisal district or taxing unit;
3. An assessor-collector, a collector, or another person designated by a governing body as the chief administrator of the taxing unit's assessment functions, collections, or both; and
4. A person who performs assessment or collection functions for a taxing unit and is required to register by the chief administrator of the unit's tax office.

Per §94.21 of the Texas Administrative Code (TAC) and TOC §1151.151, to become registered with TDLR as a PTP, the applicant must meet the following requirements:

1. Be at least 18 years old;
2. Be a resident of Texas;
3. Be of good moral character;
4. Be a high school graduate or establish high school graduation equivalency; and
5. Be actively engaged in appraisal, assessment, or collection.

The applicant is required to complete an application and submit a fee of \$105, which is comprised of an application fee of \$50 and a registration fee of \$55. Applications are made available to the public on the TDLR website.

Applications are first received at TDLR's mail room. All applications and fees are then sent to the Financial Services Division, where the fees are collected and recorded in the Tulip system. The Financial Services Division will stamp the application with a receipt number and amount of the fee paid. The applications are combined into batches and are sent to the Division for processing.

When the applications are received at the Division, a licensing specialist will perform an initial review of the application before entering the information in the Tulip system. The Tulip system is an electronic licensing system that TDLR uses for licensing and registration. The licensing specialist will ensure the applicant has properly and fully completed the application, signed the code of ethics, included their employer information, meets all the requirements for registration, and is not already registered. If the licensing specialist has determined that the application was submitted in error or that the applicant clearly does not meet the requirements, the application along with the submitted fee will be returned to the applicant.

After the initial review, the licensing specialist will enter the information in the Tulip system from the application. If the applicant failed to complete a portion of the application, the licensing specialist will indicate that it was not complete and the Tulip system will automatically generate a letter to the applicant informing them that additional information is needed.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Once the information is entered in the Tulip system, another section of the Division will perform a criminal background check on the applicant through the Department of Public Safety. If the background check is cleared and the applicant has met all the other requirements needed to be registered, the application will be approved and a registration certificate will be printed and sent to the applicant along with an approval letter. The registration certificate includes the applicant's unique registration number and states the expiration date of the registration.

To ensure compliance with TOC §1151.155, which states that TDLR shall act on an application for registration not later than the 30th day after the date the application is received, the Division's goal is to process applications within 24 hours of receipt.

During the period from September 1, 2012 to June 30, 2013, the Division issued 332 new PTP registrations.

Classification Levels

TOC §1151.160 requires that a person registered as an appraiser, an assessor, or an assessor-collector become certified as a registered professional appraiser or registered Texas assessor no later than the 5th anniversary of the person's original registration date; and, a person registered as a collector become certified as a registered Texas collector no later than the 3rd anniversary of the person's original registration date. Registrants are assigned a classification level from I to IV for appraisers and assessors and from I to III for collectors, based on the requirements they have satisfied. Registrants begin at a class I level and become certified when they reach the highest level and properly complete all the required courses and examinations needed to be certified.

TAC §94.21(8) lists the required courses and examinations that need to be completed by the registrant for each classification level. PTP required courses are approved by the Texas Comptroller of Public Accounts (Comptroller), who also acts as the course provider for these courses. Once the registrant has completed the course, the Comptroller will update the Tulip system with the number of hours completed. The Comptroller also approves the courses provided by the third-party providers who are registered with TDLR. The third-party provider is responsible for updating the Tulip system when the registrant has completed a required course. The Tulip system tracks and maintains course hours completed by the registrant as updated by the Comptroller and the third-party providers.

TDLR contracts with a third-party vendor, PSI, to conduct the examinations. PSI sends out a postcard to the registrants when they are eligible to take an exam, based on their classification level and courses completed, as reported in the Tulip system. The registrant then schedules and takes the exam; and, results are uploaded in the Tulip system by PSI.

Exceptions

Although the registrant is required to become certified in the required 3 or 5 years based on the registration type, there are certain exceptions to the requirement that can be requested by the registrant, as follows:

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Break in Service

This exception is meant to allow a PTP registrant to extend their 3 or 5 years of time to achieve certification for the time unemployed as a PTP. The time unemployed as a PTP may not exceed 5 years to qualify for this exception. The registrant is required to submit a Break in Service application form and a one-time fee of \$75. The Division is responsible for evaluating and approving Break in Service applications. If approved, the registrant's anniversary date (for achieving certification) is adjusted by the length of the "break in service".

Inactive Status

A certified registrant may also request to have their certification become inactive in order to maintain their certification while they are not working in the property tax profession. The registrant may either complete a Change of Status form or send an email to TDLR requesting a change in status. The registrant is only required to have an active registration and is not required to pay a fee; however, must continue to renew their registration annually and pay the renewal fee while their registration is inactive. To request that a certification be reactivated, the registrant must complete the Change of Status Form; complete all the required courses; and, submit a fee of \$25.

One Year Extension

Per TOC §1151.160 (g), a registrant who has not obtained a certification within the time required is entitled to a one-year extension to meet the certification requirements, if:

1. The applicant submits proof of active military status performed after the date of the applicant's original registration;
2. The applicant submits proof of leave under the federal Family and Medical Leave Act of 1993 taken after the date of the applicant's original registration;
3. The applicant submits proof of a death or illness in the family or an unforeseen emergency occurring after the date the applicants original registration that prevented the registrant from meeting certification requirements;
4. A county tax assessor-collector, chief appraiser, chief administrative officer of a political subdivision, or other person authorized by the Commission by rule requests the extension on behalf of an employee;
5. The applicant requesting the extension is a county tax assessor-collector or chief appraiser; or,
6. The applicant meets another reasonable qualification for an extension established by the Commission by rule.

The applicant is required to submit a One Year Extension form to TDLR and pay a fee of \$25. When the Division receives the form, the licensing specialist will enter the information in the Tulip system and a letter will be generated and mailed to the registrant notifying them of the approval. A one year extension can only be requested a single time.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Renewal Applications

A PTP's registration expires one year from the date issued. Sixty days prior to the expiration date, the Division will send the registrant a renewal notice. A late fee may be assessed if the registrant renews after the expiration date. To renew their registration, the registrant can complete the required information on the renewal form and send it back to TDLR through the mail or renew online. The registrant is also required to pay a fee of \$55, if they renew before their registration's expiration date. If the applicant does not renew before the expiration date, they will be subject to pay a late fee depending on the number of days it takes to renew. A person whose registration has been expired for 90 days or less may renew by paying a renewal fee that is equal to 1½ times the required renewal fee. A person whose registration has been expired for more than 90 days but less than 18 months may renew by paying a renewal fee that is equal to two times the required renewal fee.

Registrants whose registration has been expired more than 18 months but less than 3 years are required to complete a Request for Expired License Renewal form and submit it along with a renewal fee of two times the required renewal fee amount. The registrant is also required to document the reason why they have not renewed. If the registrant's registration has been expired for more than 3 years, they must reapply as a new applicant.

When a renewal application is received, the licensing specialist will verify in the Tulip system that the registrant has completed all the required requisites needed and has passed the required examination to move to the next classification level. If the registrant has not completed the required requisites or passed the examination, the Division will send the registrant a letter informing them that they have not completed all their requisites. If all the requirements have been completed, the Division will send the registrant a new registration with a new expiration date. If the registrant has passed their examinations and all requirements to be certified, the licensing specialist will send the registrant a certification.

During the period from September 1, 2012 to June 30, 2013, the Division renewed 2,915 registrations.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Fees

TAC §94.80 defines the following fees that can be collected for PTPs:

Fee Type	Amount
Application Fee	\$105
Renewal Fee	\$55
Late Renewal Fee	
90 days or Less	\$82.50
More than 90 days but less than 3 years	\$110
Examination Fee	
Class III Appraiser	\$55
Class III Assessor / Collector	\$55
Class III Collector	\$80
Class IV Appraiser	\$80
Class IV Assessor / Collector	\$80
Break in Service Application Fee	\$75
One Year Extension Fee	\$25
Change from Inactive to Active Status Fee	\$25
Revised or Duplicate License Fee	\$25

During the period from September 1, 2012 to June 30, 2013, TDLR collected \$198,018 in PTP fees.

Senate Bill 546

During the 83rd Session of the Texas Legislature, Senate Bill 546 was passed and went into effect on June 14, 2013. As a result, elected County Assessor-Collectors and their employees are no longer subject to registration, certification, continuing education, enforcement, and all other provisions under Chapter 1151 of the Texas Occupations Code. TDLR sent all registered PTPs an email informing them of this Bill and requested they review TDLR's database to ensure their employment information was accurate before being removed as a licensed PTP.

Due to the provisions of this Bill, there were a total of 701 elected County Assessor-Collectors and their employees that no longer required regulation by TDLR.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

Audit Scope/Objective

The scope of our audit was the Property Tax Professionals Area of the Texas Department of Licensing and Regulation (TDLR). The objective of our audit was to gain an understanding of the Property Tax Professionals Area and determine if the processes in place by TDLR are sufficient to ensure compliance with applicable sections of the Texas Occupations Code (TOC) and Texas Administrative Code (TAC); and, TDLR's established policies and procedures.

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

1. Reviewed and obtained an understanding of the applicable laws and regulations provided in the Texas Occupations Code and Texas Administrative Code, as applicable to property tax professionals.
2. Obtained and reviewed TDLR's written policies and procedures, collected available documentation, and conducted interviews to document formal/informal processes and controls.
3. Obtained a list of original applications received by TDLR during the period from September 1, 2012 to June 30, 2013 and randomly selected 15 applications to test for the following attributes:
 - a. Ensured the application was properly completed;
 - b. Ensured the applicant properly signed the code of ethics;
 - c. Ensured the application fee was collected;
 - d. Ensured the applicant met all the eligibility requirements defined by TOC §1151.152;
 - e. Ensured the applicant was assigned a registration card with a unique registration number and expiration date documented on it; and
 - f. Ensured the application was processed within 30 days of receipt.
4. Obtained a list of renewal applications received by TDLR during the period from September 1, 2012 to June 30, 2013 and randomly selected 25 renewal applications to test for the following attributes:
 - a. Ensured the renewal application was properly submitted;
 - b. Ensured the renewal fee was collected;
 - c. Ensured the applicant completed all the requisites needed for their classification level as defined by TAC §94.21(8); and
 - d. Ensured the proper application or form was completed and fee was paid, if an exception (e.g., break in service, inactive status, one-year extension) was requested.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

5. Obtained an understanding of the effects of Senate Bill 546 on TDLR's regulation over Property Tax Professionals and haphazardly selected 10 elected County Assessor-Collectors and 10 employees of elected County Assessor-Collectors to ensure they no longer registered with TDLR and have been properly removed from the TDLR database.
6. Obtained a listing of fee refunds issued during the period from September 1, 2012 to June 30, 2013 and haphazardly selected 3 refunds to review and ensure it was properly issued.

I. Compliance with House Bill 16: Posting the Internal Audit Plan, Internal Audit Annual Report, and Other Audit Information on TDLR's Website

To comply with the provisions of House Bill 16, within 30 days of approval by TDLR's Commission, TDLR will post the following information on its website:

- An approved fiscal year 2014 audit plan, as provided by Texas Government Code, Section 2102.008.
- A fiscal year 2013 internal audit annual report, as required by Texas Government Code, Section 2102.009.

The internal audit annual report includes any weaknesses, deficiencies, wrongdoings, or other concerns raised by internal audits and other functions performed by the internal auditor as well as the summary of the action taken by TDLR to address such concerns.

II. Internal Audit Plan for Fiscal Year 2013

The Internal Audit Plan (Plan) included 4 audits to be performed for the 2013 fiscal year. The Plan also included a follow-up of the prior year audit recommendations, other tasks as assigned by the Commissioners, Audit Committee, or management during the year, and preparation of the Annual Internal Audit Report for fiscal year 2013.

The areas recommended for internal audits and other tasks to be performed for the fiscal year 2013 were as follows:

<u>Report No.</u>	<u>Audits/Report Titles</u>	<u>Completion Date</u>
1.	Cash Receipts and Fee Processing	1/25/2013
2.	Fixed Asset Management	4/15/2013
3.	Enforcement Administration, Fines, and Penalties	8/7/2013
4.	Property Tax Professionals	8/7/2013
5.	Other Tasks Assigned by the Commissioners, Audit Committee, or Management	None

TEXAS DEPARTMENT OF LICENSING AND REGULATION
 Annual Internal Audit Report
 Fiscal Year 2013

Risk Assessment

Utilizing information obtained through the inquiries and background information received, 37 audit areas were identified as potential audit topics. A risk analysis utilizing our 8 risk factors was completed for each individual audit topic and then compiled to develop an overall risk assessment.

Following are the results of the risk assessment performed for the 37 potential audit topics identified:

HIGH RISK	MODERATE RISK	LOW RISK
Enforcement Administration, Fines, and Penalties Property Tax Professionals Cosmetology Cash Receipts and Fee Processing Fixed Assets Management	Licensed Breeders Industrialized Housing and Buildings Polygraph Examiners Vehicle Protection Product Warrantors Information Technology System Development Performance Measures Reporting Education and Examination Elevators, Escalators, and Related Equipment Boilers Electricians Cash Disbursements, Travel, and Purchasing Payroll and Human Resources Identity Recovery Service Contract Providers Legal Service Contracts Licensed Court Interpreters Loss Damage Waivers Used Auto Part Recyclers Weather Modification Law	Architectural Barriers Combative Sports Water Well Drillers and Pump Installers Air Conditioning and Refrigeration Contractors Barbers Tow Trucks, Booting, and Vehicle Storage Facilities Records Retention Budgeting Auctioneers Property Tax Consultants Service Contract Providers Staff Leasing Services Information Systems – Security and Disaster Recovery Temporary Common Workers

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Annual Internal Audit Report

Fiscal Year 2013

In the prior 3 years, internal audits were performed by a predecessor internal auditor in the following areas:

Fiscal Year 2012:

- Air Conditioning and Refrigeration Contractors
- Cosmetology
- Payroll and Personnel Processes
- Service Contract Providers

Fiscal Year 2011:

- Electricians
- Property Tax Consultants
- Staff Leasing Services
- Temporary Common Workers

Fiscal Year 2010:

- Barbers
- General Counsel/Legal Services/Collection Processes
- Information Systems Disaster Recovery/Business Continuity/System Security
- Tow Trucks, Operators, and Vehicle Storage Facilities

III. Consulting and Nonaudit Services Completed

The internal auditor did not perform any consulting services, as defined in the Institute of Internal Audit Auditor's *International Standards for the Professional Practice of Internal Auditing* or any non-audit services, as defined in the *Government Auditing Standards, December 2011 Revision*, Sections 3.33-3.58.

IV. External Quality Assurance Review

The internal audit department's most recent *System Review Report*, dated October 26, 2012, indicates that its system of quality control has been suitably designed and conforms with applicable professional standards in all material respects.

TEXAS DEPARTMENT OF LICENSING AND REGULATION
 Annual Internal Audit Report
 Fiscal Year 2013

V. Observations/Findings and Recommendations

Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Current Status (Fully Implemented, Substantially Implemented, Incomplete/ Ongoing, or Not Implemented) with brief description if not yet implemented	Fiscal Impact/Other Impact
3	8/7/2013	Enforcement Administration, Fines and Penalties	<p>1. Investigation Process</p> <p>To determine that investigations were conducted in a prompt and efficient manner we selected and tested thirty (30) investigations. The result of our testing revealed that two (2) investigations selected for testing had no activity for 173 to 254 days.</p> <p>Recommendation We recommend that the TDLR continue to monitor the investigation process to include a review of all cases that reach the quarterly anniversary without activity. For cases that become aged (over 90 days) a procedure to prioritize cases should be established.</p> <p>Management Response We agree. Prior to the audit Management monitored the average age of an investigator's entire caseload to ensure the investigator was working the entire caseload within an acceptable number of days. However, Management will now focus on the ages of the individual cases in an investigator's caseload, using various methods which will include a monitoring report called "Cases in Process – Detail Data". This report will give the age of each case assigned to the investigator. Although none of the available monitoring methods will allow Management to know which cases have had an extended period of inactivity, they will allow Management to determine which cases have been open for an extended period of time. Those cases can then be further looked into, and cases that have been inactive too long will be discovered.</p>		Efficiency and effectiveness of License Enforcement.

TEXAS DEPARTMENT OF LICENSING AND REGULATION
 Annual Internal Audit Report
 Fiscal Year 2013

Report No.	Report Date	Name of Report	Observations/ Findings and Recommendations	Current Status (Fully Implemented, Substantially Implemented, Incomplete/ Ongoing, or Not Implemented) with brief description if not yet implemented	Fiscal Impact/Other Impact
4	8/7/2013	Property Tax Professionals	<p>1. PTP Procedures</p> <p>TDLR's PTP Procedures remain in a draft version with several noted revisions and corrections which have not been finalized.</p> <p>Recommendation We recommend TDLR finalize the PTP Procedures and ensure a final draft is provided to staff for use in the processing of applications.</p> <p>Management Response Management concurs. Management is finalizing the PTP procedures in light of the passage of SB 546, 83rd Regular Session.</p>		To ensure procedures are clear and comprehensive.

TEXAS DEPARTMENT OF LICENSING AND REGULATION
 Annual Internal Audit Report
 Fiscal Year 2013

Report No.	Report Date	Name of Report	Observations/ Findings and Recommendations	Current Status (Fully Implemented, Substantially Implemented, Incomplete/Ongoing, or Not Implemented) with brief description if not yet implemented	Fiscal Impact/Other Impact
	8/7/2013	2013 Follow-Up	<p>Follow up of Prior Year Comments not yet Fully Implemented</p> <ol style="list-style-type: none"> Boilers – Some Boilers Are not being Inspected Timely Boilers – Some Boilers are not being inspected as required by the Texas Administrative Code (TAC) and Texas Health and Safety Code, and Revenue from Uninspected Boilers is not being collected by the Department. Boilers – The Department should collect all overdue fees or Boiler disciplinary cases. In the performance of all Boiler Program disciplinary cases, the Department should review each Boiler's inspections and Certificates of Operation history to ensure that all previous outstanding and unpaid fees are taken into consideration during the disciplinary action. Boilers – The Board of Boiler Rules is required to hold meetings at least twice each year. TDLR should encourage the Board of Boiler Rules to meet at least twice a year in order to comply with the requirements of Texas Boiler Law §755.016. The last meeting was held May 22, 2008. 	<p>Incomplete/Ongoing The State Auditor's Office (SAO) conducted an audit of "Selected Inspection Activities." Based on the results of the SAO audit timeliness of boiler inspections conducted by TDLR and by third-party inspectors is not resolved. The SAO report was issued July 11, 2013 and is available on the SAO website.</p> <p>Fully Implemented</p> <p>Not Implemented Board meetings have not been held primarily due to the availability of the Chief Boiler Inspector/Board Chair.</p>	

TEXAS DEPARTMENT OF LICENSING AND REGULATION
 Annual Internal Audit Report
 Fiscal Year 2013

Report No.	Report Date	Name of Report	Observations/ Findings and Recommendations	Current Status (Fully Implemented, Substantially Implemented, Incomplete/ Ongoing, or Not Implemented) with brief description if not yet implemented	Fiscal Impact/Other Impact
	8/7/2013	2013 Follow-Up	<p>4. Cosmetology – Enhance Control to ensure Case Files with disciplinary actions are kept current.</p> <p>The Department should enhance controls to ensure that case files with disciplinary actions are properly maintained, documented, and monitored. TDLR considered cases closed when the first payment is made on an agreed order, however all activity for case files with disciplinary actions should be documented (written or scanned) chronologically by date until the case file is finally closed by the Department or by commission action. This will also ensure that all assessed penalty payments are received and that all other Department requirements for the particular disciplinary actions have been met.</p> <p>5. Cosmetology – Enhance controls over assigned Disciplinary Case Files.</p> <p>The Department should enhance controls to monitor the status of all assigned active complaint cases with disciplinary actions to ensure that all required documents and correspondence with parties involved are documented and included in the file to determine current status. In addition, TDLR should ensure that the policy to issue quarterly status reports to parties involved in an ongoing case is performed.</p>	<p>Substantially Implemented</p> <p>Enforcement has established a process to review for payments on agreed orders however our testing of ten (10) agreed orders resulted in one (1) payment which was over one (1) month late and no notice of a late payment was issued as required.</p> <p>Fully Implemented</p>	

VI. Proposed Internal Audit Plan for Fiscal Year 2014

The risk assessment performed during the 2013 fiscal year was used to identify the following *proposed* areas that are recommended for internal audits for fiscal year 2014. The Internal Audit Plan for Fiscal Year 2014 will be developed and presented to the Commission at a meeting to be determined at a later date.

- Licensed Breeders
- Industrialized Housing & Buildings
- Education and Examination

VII. External Audit Services Procured in Fiscal Year 2013

TDLR procured the internal audit services documented in the Internal Audit Plan for fiscal year 2013.

VIII. Reporting Suspected Fraud and Abuse

TDLR has provided information on their home page on how to report suspected fraud, waste, and abuse to the State Auditor’s Office (SAO) by posting a link to the SAO’s fraud hotline. TDLR has also developed a Fraud Prevention Policy that provides information on how to report suspected fraud, waste, and abuse to the SAO.

IX. Organizational Chart

