

Texas Department of Licensing and Regulation

IA # 2021-05 Internal Audit Follow-Up Procedures
Report over Prior Years' Open Internal Audit Findings
September 15, 2021

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Commissioners of the
Texas Department of Licensing and Regulation
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This report presents the results of the internal audit follow-up procedures performed for the Texas Department of Licensing and Regulation (TDLR) during the period June 21, 2021 through September 15, 2021, related to the findings identified in prior years' various internal audit reports.

The objective of these follow-up procedures was to validate that adequate corrective action has been taken in order to remediate the issues identified in the prior fiscal years' internal audit reports.

To accomplish this objective, we conducted interviews with key TDLR personnel responsible for each of the program areas. We also reviewed documentation and performed specific testing procedures to validate actions taken. Due to the COVID-19 pandemic and concern for the health and safety of TDLR and audit staff, procedures were performed remotely. An exit meeting was conducted via teleconference on September 15, 2021.

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

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Austin, Texas
September 15, 2021

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Background

Internal audit procedures were performed in fiscal years 2013 through 2018 across multiple program areas and reported to the Commission. In fiscal year 2019, follow-up procedures were performed to evaluate the corrective action taken by TDLR management to remediate open internal audit findings from those prior internal audit reports. As a result of those follow-up procedures, five findings were determined to be remediated, one was partially remediated, one was closed, and one remained open.

The 2021 Internal Audit Plan included performing follow-up procedures to validate that TDLR management has taken steps to address two outstanding internal audit findings in the following processes and program areas:

- Tow Trucks, Booting, & VSF Program
- Performance Measures

Follow-Up Procedures Objective and Scope

The follow-up procedures focused on the remediation efforts taken by TDLR management to address the two remaining open findings identified in the prior year internal audit reports, and to validate that appropriate corrective action had been taken.

Executive Summary

The findings from the prior years' internal audit reports include those items that were identified and are considered to be non-compliance issues with TDLR's 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 TDLR. These issues could have significant financial or operational implications.

Through our interviews, review of documentation, observations and testing we determined that of the two findings we evaluated for corrective actions, one has been partially remediated and one has been closed by management.

Risk Rating	Total Findings	Previously Closed	Remediated	Closed	Partially Remediated
High	10	9	-	-	1
Moderate	2	2	-	-	-
Low	7	6	-	1	-
Total	19	17	-	1	1

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

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FOLLOW-UP ASSESSMENT	Satisfactory
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SCOPE AREA	RESULT	RATING
<p>Objective: Validate that adequate corrective action has been taken in order to remediate the issues identified in the prior fiscal years' internal audit reports.</p>	<p>We identified that procedures implemented by management partially remediated the two outstanding internal audit findings.</p> <p>TDLR management should continue their efforts to ensure timely inspections of VSF licensees.</p>	<p>Satisfactory</p>

Conclusion

Based on our evaluation, key personnel in each of their respective program areas made efforts to remediate the findings from the prior years' internal audit reports. However, management should continue to make efforts to remediate the remaining partially remediated internal audit finding by ensuring that inspections of VSF licensees are completed timely.

Follow-up procedures should be conducted in Fiscal Year 2022 to validate the effectiveness of the remediation efforts taken to address the remaining outstanding findings.

**Detailed Follow-Up Results, Findings,
Recommendations and Management
Response**

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Detailed Follow-Up Results, Recommendations and Management Response

Our procedures included interviewing key personnel across the two program areas to gain an understanding of the corrective actions taken in order to address the findings identified in prior year internal audit reports, as well as examining existing documentation and performing testing in order to validate those corrective actions. We evaluated the existing policies, procedures, and processes in their current state.

Objective: Validate Remediation

Validate that adequate corrective action has been taken in order to remediate the issues identified in the prior years' internal audit reports.

Tow Trucks, Booting & VSF Programs (2016)

Risk Rating	Total Findings	Previously Remediated	Remediated	Partially Remediated	Open
High	4	3	-	1	-
Moderate	-	-	-	-	-
Low	-	-	-	-	-
Total	4	3		1	

2016 - Finding 2 – High – Periodic Inspections: TAC §86.451, §85.451, and §89.46 states that each towing, booting and VSF company shall be inspected at least once every 2 years.

Our testing of 10 tow-truck company and 10 VSF inspections disclosed 5 instances where the tow truck companies were inspected 1 to 8 years after the required date, and 3 instances where the VSFs were inspected 1 to 9 years after the required date.

2021 - Results: Finding partially remediated

While progress has been made in reducing the number of overdue VSF inspections, corrective actions have not been fully implemented. COVID-19 pandemic severely impacted the ability of TDLR to perform the amount of VSF inspections required by TAC §85.451. Therefore, this finding will be assessed for remediation at the next scheduled follow-up.

Management's Response: Management concurs. The Field Inspections Division continues to address and eliminate historical inspection backlogs in the VSF program. Beginning in FY 2021, the division took targeted actions to eliminate backlogged inspections and successfully eliminated backlogs for FYs 2015, 2016, and 2017. As of September 22, 2021, 559 VSF inspections were overdue, as follows:

FY 2018	14
FY 2019	43
FY 2020	105
<u>FY 2021</u>	<u>397</u>
Total	559

To address the VSF backlog, two additional inspectors completed training this year and have been released to perform VSF inspections.

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The pandemic has presented an ongoing challenge to eliminating VSF backlogs. Inspections were suspended in many counties as recently as April 2021. Eighty-nine percent of backlogged VSF inspections are from FY 2020 and FY 2021 – this directly relates to the constraints imposed by the pandemic.

The division field tested the use of virtual inspections beginning in August 2020; however, the use of virtual inspections for the VSF program has been less successful than in other programs. Challenges include Internet connectivity issues and technology issues relating to scanning and sending required documentation needed to complete an inspection.

HB 1560, TDLR's Sunset bill, passed during the 87th Legislative Session and requires TDLR to develop a risk-based inspection process. Notably, the legislation removed fixed periodic inspection requirements from statute and required TDLR to adjust inspection cycles based on the risk factors of different businesses and business types. While management acknowledges the existing backlog based on the previous legislative framework, that framework and the associated requirements will no longer be applicable once TDLR has developed its risk-based inspection policy.

Responsible Party: Field Inspections Division Director

Implementation Date: July 1, 2022

Performance Measures (2017)

Risk Rating	Total Findings	Previously Remediated	Remediated	Partially Remediated	Closed
High	-	-	-	-	-
Moderate	-	-	-	-	-
Low	2	1	-	-	1
Total	2	1	-	-	1

2017 - Finding 19 – Low – Total Number of Inspections Completed – Elevators (2017): Our testing indicated that TDLR reported inaccurate results for this performance measure due to a lag in the reporting by inspectors of elevators inspected. The number of inspections completed for the elevators program is based on the number of inspection reports reported in the online reporting system by inspectors. Therefore, a lag from the inspection date to the time the inspector reports the inspection to TDLR, will cause an inspection to be excluded from the number of inspections completed and result in inaccurate results reported for this performance measure.

We compared the count for the number of elevator inspections completed as reported in ABEST to TDLR's detailed record of inspections completed for the months ended August 2016 and February 2017, which indicated that the number reported in ABEST was 331 or 8%; and, 285 or 7% less than the actual number of inspections completed for the periods tested.

2021 - Results: Finding Closed

We obtained a list of the inspections performed for the second quarter of fiscal year 2021 and the number of inspections reported in the Legislative Budget Board's (LBB) ABEST system. The number of inspections included in TDLR's inspection report exceeded the figures reported in ABEST by 213 inspections, or 1.4%, for the period tested.

Based on the low error rate, management has decided to accept the remaining risk and close the finding.

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

Moderate

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

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

Low

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

- Events that do not directly threaten the agency's strategic priorities
- Impact is limited to a single function within the agency
- 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