

# Texas Department of Licensing and Regulation

IA # 2020-03 Internal Audit Follow-Up Procedures Report  
over Enforcement Administration

June 26, 2020

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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 May 20, 2020, through June 26, 2020, related to the findings identified in the 2018 Internal Audit Report over Enforcement Administration dated August 23, 2018.

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 2018 Internal Audit Report over Enforcement Administration.

To accomplish this objective, we conducted interviews with key TDLR personnel responsible for each of the reported findings. We also examined 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, follow-up procedures were performed remotely and an exit meeting was conducted on June 26, 2020.

The following report summarizes the results of our follow-up procedures, recommendations for improvement and management's responses.

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August 25, 2020

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Administration  
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## Background

Internal audit procedures were performed over TDLR's Enforcement Administration process in 2018 and reported to the Commission. The 2018 Internal Audit Report over Enforcement Administration identified six areas for improvement related to review and timeliness of intake procedures, timeliness of investigations, timeliness of prosecutor resolutions, timeliness of motions for rehearing processing, and inappropriate user access.

The 2019 Internal Audit Plan included performing follow-up procedures to validate that TDLR management had taken steps to address internal audit findings. As a result of the follow-up procedures performed in 2019, we previously reported to the Commission that three of the six findings had been fully remediated.

The 2020 Internal Audit Plan included performing follow-up procedures to determine whether management has implemented corrective actions for the three remaining outstanding internal audit findings identified in the 2018 report.

## Follow-Up Procedures Objective and Scope

The follow-up procedures focused on the remediation efforts taken by TDLR management to address the three remaining outstanding internal audit findings included in the 2018 Internal Audit Report over Enforcement Administration, and to validate that appropriate corrective action had been taken.

We evaluated the corrective action for the three outstanding internal audit findings identified in the 2018 Internal Audit Report over Enforcement Administration.

Our procedures included interviewing key personnel within the Enforcement Administration process, examining existing documentation, and evaluating if corrective action has been taken. Our coverage period was June 1, 2019, through April 30, 2020.

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### Executive Summary

The findings from the 2018 Internal Audit Report over Enforcement Administration 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 three findings we evaluated for corrective actions, two were fully remediated and one was partially remediated.

Risk Rating	Total Findings	Previously Closed	Remediated	Closed	Partially Remediated	Open
High	-	-	-	-	-	-
Moderate	6	3	2	-	1	-
Low	-	-	-	-	-	-
<b>Total</b>	<b>6</b>	<b>3</b>	<b>2</b>	<b>-</b>	<b>1</b>	<b>-</b>

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

<b>FOLLOW-UP ASSESSMENT</b>	<b>Strong</b>
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SCOPE AREA	RESULT	RATING
<b>Objective:</b> Validate that adequate corrective action has been taken in order to remediate the issues identified in the 2018 Internal Audit Report over Enforcement Administration.	We identified that procedures implemented by management fully remediated two outstanding internal audit findings and partially remediated the one remaining outstanding internal audit finding.  TDLR management should continue their efforts to monitor cases under investigation to ensure they are being actively worked to completion.	<b>Strong</b>

### Conclusion

Based on our evaluation, the agency has fully remediated two and partially remediated one of the three outstanding findings from the 2018 Internal Audit Report over Enforcement Administration. Management should continue to make efforts to remediate the one finding that was partially remediated by continuing to monitor cases under active investigation to ensure they are being actively worked to completion.

Follow-up procedures should be conducted in Fiscal Year 2021 to validate the effectiveness of the remediation efforts taken to address the remaining outstanding finding.

**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 within the Enforcement Administration process to gain an understanding of the corrective actions taken to address the three remaining outstanding internal audit findings identified in the 2018 Internal Audit Report over Enforcement Administration, examining existing documentation, and performing testing to validate corrective actions taken. 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 three remaining outstanding internal audit findings identified in the 2018 Internal Audit Report over Enforcement Administration.

#### Enforcement Administration

##### Finding 03 – 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. The electronic case management system TDLR uses for management of Enforcement cases does not have a reporting feature which allows them to identify investigations which have extended periods of no activity. 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.

##### Results: Finding partially remediated

We selected a sample of 25 cases opened between June 1, 2019, and April 30, 2020, for testing to determine if the cases had been resolved within the 90 day requirement set by TDLR management.

Of the 25 samples tested, we identified two cases that exceeded the 90 day goal set by TDLR management, and did not have any activity within a 90 day period.

**Management's Response:** We agree that the 2 out of the 25 investigations sampled (8%) went extended amounts of time with no activity. In an effort to minimize the reoccurrence of this the division implemented a new case distribution method in January 2020 which included (1) regional case distribution in programs that require of an onsite investigation, which will allow investigators to initiate investigations more timely without having to wait for another investigator to perform the onsite investigation on their behalf; (2) increasing the number of investigators that work cases in the building and mechanical programs, which typically take a longer amount of time to complete; and (3) monitoring how many cases each investigator is assigned monthly. This new methodology will ensure investigators are assigned cases more equitably, which in turn should lower the individual investigator caseload and allow them more time to focus on each case. Additionally, the Lead Investigators have continued to closely monitor the caseloads of those investigators with an average age over 90 days, which includes one-on-one meetings to discuss cases have been open for over 90 days and those with no activity for 60 days. We will continue these monitoring procedures to ensure that investigations are conducted within the established timeframes, and that attention is given to cases with no activity.

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**Responsible Party:** Investigations Manager  
**Implementation Date:** December 31, 2020

### **Finding 05 – 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 create 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.

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 an agency must act on the motion within 55 days from the date the Order was issued.

**Results:** Finding remediated

### **Finding 06 – 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.

**Results:** Finding remediated

# 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 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