

# Texas Department of Licensing and Regulation

IA # 2018-02 Internal Audit Follow-Up Procedures  
Report over Prior Years' Open Internal Audit Findings

Report Date: August 29, 2018

Issued: September 5, 2018

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

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 25, 2018, through August 29, 2018, related to the findings identified in prior years internal audit reports over multiple prior internal audits.

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. Procedures were performed at the TDLR's North Campus and an exit meeting was conducted on August 29, 2018.

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

*Weaver and Tidwell, L.L.P.*

WEAVER AND TIDWELL, L.L.P.

Austin, Texas  
August 29, 2018

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Prior Years' Open Internal Audit Findings

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## Background

Internal audit procedures in fiscal years 2013 through 2017 were performed across multiple program areas and reported to the Commission. In fiscal year 2018, 19 of 45 original areas for improvement remained open from those prior internal audit reports in the following processes and program areas:

- Tow Trucks, Booting, & VSF Program
- Water Well Drillers & Pump Installers Program
- Information Systems – Security & Disaster Recovery
- Elevator, Escalator, and Related Equipment (ELE) Program
- Licensed Breeders Program
- Records Retention
- Enforcement Administration
- Combative Sports
- Other Programs
- Performance Measures

The 2018 Internal Audit Plan included performing procedures to validate that TDLR management has taken steps to address internal audit findings.

## Follow-Up Procedures Objective and Scope

The follow-up procedures focused on the remediation efforts taken by TDLR management to address findings included in the prior year Internal Audit Reports, and to validate that appropriate corrective action had been taken.

We evaluated the corrective action for 15 of the 19 internal audit findings identified in the prior year Internal Audit Reports over the following program areas:

- Tow Trucks, Booting, & VSF Program
- Water Well Drillers & Pump Installers Program
- Information Systems – Security & Disaster Recovery
- Elevator, Escalator, and Related Equipment (ELE) Program
- Licensed Breeders Program
- Records Retention
- Enforcement Administration
- Combative Sports
- Other Programs
- Performance Measures

We determined that of the 19 open internal audit findings identified in the prior internal audit reports four were not ready to be evaluated since TDLR management indicated that corrective action had not been completed to remediate the issues. Additionally, we evaluated the corrective action taken by management to address the observation identified in the prior year Internal Audit Reports that were provided separately.

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## 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 15 findings where corrective action was evaluated, 10 were fully remediated, two were partially remediated, two were not remediated, and one was closed by management.

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
High	10	7	1	1	1
Moderate	2	-	-	-	2
Low	7	3	-	1	3
<b>Total</b>	<b>19</b>	<b>10</b>	<b>1</b>	<b>2</b>	<b>6</b>

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.*

<b>FOLLOW-UP ASSESSMENT</b>	<b>SATISFACTORY</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 prior fiscal years' internal audit reports.	We identified that procedures implemented by management addressed and remediated prior open findings. However, in addition to remediating the four findings that were not evaluated due to no action being taken by management, TDLR should continue their efforts to remediate the remaining open findings: <ul style="list-style-type: none"> <li>• Ensure timely inspections of towing, booting and VSF licensees</li> <li>• Report accurate status of all abandoned wells to TCEQ</li> <li>• Complete investigations in a timely manner</li> <li>• Define reporting and insurance requirements for weather modification licensees</li> </ul>	<b>SATISFACTORY</b>

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## Conclusion

Based on our evaluation, key personnel in each of their respective program areas made efforts to remediate the findings from the prior year's internal audit reports. However, management should continue to make efforts to remediate the four remaining open findings as well as make additional efforts to remediate the two findings that are partially remediated.

We recommend TDLR continue to remediate the remaining findings and strengthen existing processes. TDLR should develop periodic reviews to evaluate information systems security and disaster recovery preparedness. TDLR should also perform a review of records contained in the imaging system and proceed with the permanent disposal of eligible records.

Further, TDLR should continue efforts to improve the method of calculations of all elevator inspections completed to ensure performance measure results reported to ABEST are accurate and complete, as well as continuing to improve the accuracy of abandoned well reporting to TCEQ.

Additionally, TDLR should define reporting requirements for weather modification licensees and ensure that inspections of towing, boating and VSF licensees are completed timely.

Follow-up procedures should be conducted in Fiscal Year 2019 to validate the effectiveness of the remediation efforts taken to address the remaining open 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 multiple 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 Program and Water Well Drillers & Pump Installers Program

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
HIGH	4	2	1	1	-
MODERATE	-	-	-	-	-
LOW	2	1	-	-	1
<b>Total</b>	<b>6</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>1</b>

**Finding 1 – HIGH – Inspection Corrective Action Verification:** In accordance with TAC §86.453, within 10 days of receiving the report of required corrective action to be taken as a result of an inspection performed, the licensee shall provide written verification of completion of the corrective action.

Testing of 20 inspections performed indicated that in 2 instances, with inspection dates of November 18, 2015 and March 13, 2016, the tow truck company licensee has not reported the completion of the required corrective action.

### Results: Closed by Management

Procedures have not been implemented to ensure licensees provide written verification that corrective action has been taken as a result of an inspection. When violations are identified in an inspection, they fall into two categories: violations which are egregious in nature resulting in potential threats to health and safety, which are forwarded to TDLR's Enforcement Division for possible prosecutorial action, and violations which are more administrative in nature and are required to be corrected by the owner within ten days. Therefore, serious violations are addressed without requiring a follow-up by Field Inspections.

Management has determined that TDLR is willing to accept the risk associated with not performing follow-up inspections on administrative violations and allowing the limited number of Field Inspections personnel to focus on performing required inspections, which can identify further serious violations.

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**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. 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.

**Results: Finding partially remediated**

We interviewed the Field Operations Facilitator and reviewed of supporting documentation and verified TDLR has implemented changes to perform towing, booting, and VSF inspections in a timely manner. The agency implemented the use of a routing optimization program to better manage the inspection workload with an emphasis on performing the oldest due inspections. In addition, the Field Operations Facilitator utilized the Report Manager System to generate Overdue Reports on a monthly basis to monitor inspections overdue by region and program area and perform trend analysis on the backlogged number of inspections. We reviewed the backlog trend analysis and determined that since January 2018, the total number of backlogged inspections across multiple program areas has consistently decreased every month.

We obtained a system generated report of all towing, booting, and vehicle safety facility entities registered with TDLR and analyzed the data to assess the timeliness of inspections performed on these entities within the past two years. Below are the results of our analysis of all 6,051 active licensees:

Timeliness of Inspection	Count	Percentage	
Less than 2 years	4458	74%	In Compliance
Greater than 2 years	1593	26%	Not In Compliance

In addition, we selected a sample of 30 towing, booting, and vehicle safety facility entities and verified entities were inspected according to TAC guidelines.

**Management's Response:** Progress is being made on the reduction of the Towing/VSF inspection backlog due to enhancements that include a route optimization program to streamline planning better target overdue inspections. We gained efficiencies with an electronic inspection process for the Tow program that reduces administrative time by digitally transferring inspection results to the Towing database. We continue to monitor and analyze overdue inspection reports to better concentrate on the backlog.

**Responsible Party:** Director of Field Operations

**Implementation Date:** September 1, 2019

**Finding 3 – HIGH – Risk-based Inspections:** TAC §86.452, §85.452, and §89.47 states that risk-based inspections are those required in addition to periodic inspections for towing, booting and VSF companies determined by TDLR to be a greater risk to the public. Discussions with various staff members indicated that TDLR is currently not performing risk-based inspections; and, based on our testing performed, policies or procedures have not been established for such inspections.

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#### Results: Finding remediated

We obtained the enrolled version of SB 1501 passed by both chambers of the Texas Legislature and signed by the Governor during the 85th Regular Legislative Session. We examined the amendments made and provisions repealed within OCC §2308.059 and determined the requirement for risk-based inspections has been removed from the statute.

**Finding 4 – HIGH – VSF Licensing Requirement:** To be eligible for a VSF license, TAC §85.201 requires a VSF to state the height of any fence enclosing the VSF and the date it was installed; and, to include a statement indicating whether the facility has an all-weather surface, signs posting in the proper locations, and lighting, as required by the rules. Discussions with various staff members indicated that TDLR does not require the VSF to provide this information as part of the application process; however, ensures compliance with these requirements as part of the inspection process. It should be noted that we observed these requirements to be included in the inspection checklist.

#### Results: Finding remediated

We reviewed the Texas Register, Volume 43, Number 1, Pages 1-136, January 5, 2018, which serves as a journal for state agency rulemaking in the State of Texas, and verified that fence, signage, and lighting requirements were removed. The Texas Register outlined the amendments adopted by the Texas Commission of Licensing and Regulation to existing rules including an amendment to TAC §85.201 to remove the requirements during the initial licensure application process. In addition, we reviewed TAC §85.201 in its current form and determined the requirements have been removed from the VSF license requirements.

**Finding 5 – LOW – Injurious Well Report Notification:** TAC §76.62 states that within 30 days of TDLR receiving an Injurious Report from a driller/installer, it is required to notify the respective landowner or person in possession of the well, that the driller/installer is required by law to ensure that the well is plugged, repaired, or completed in accordance with TAC Chapter 76. Our testing of 10 Injurious Reports and discussions with management indicated that there is not a formal process in place to comply with the 30 day notification required by TAC §76.62. Instead, TDLR relies on the driller's/installer's compliance with TAC §76.71, which requires the driller/installer to inform the landowner or person in possession of the well of the existence of injurious water within 24 hours of him/her becoming aware of such.

#### Results: Finding remediated

We reviewed the Texas Register, Volume 43, Number 11, Pages 1531-1764, March 16, 2018 and verified the required notification has been removed. The Texas Register outlined the amendments adopted by the Texas Commission of Licensing and Regulation to existing rules including an amendment to TAC §76.62 to clarify the timeframes in which the department will review an injurious water report and take any appropriate action to notify a well owner. The adopted rule provides that Department shall review the well report for corrective actions taken by the driller, within forty-five days after receipt of an Injurious Water Report.

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**Finding 6 – LOW – TCEQ (Texas Commission on Environmental Quality) Reporting:** TDLR is required to report the status (plugged, brought to compliance, and various) of all abandoned wells to TCEQ on an annual basis. We compared the data reported in the 2015 annual report submitted to TCEQ to the data in the "Abandoned Wells By Date" report (Report) used to prepare the TCEQ report and identified the following discrepancies:

- 35 abandoned wells per the TCEQ report vs 33 in the Report;
- 6 plugged wells per the TCEQ report vs 9 in the Report; and,
- 2 brought to compliance wells per the TCEQ report vs 4 in the Report.

**Results: Finding not remediated**

We obtained the 2018 TCEQ Report on Abandoned Wells and source data used to generate the report. We compared metrics reported in the TCEQ Report with the "Abandoned Wells by Date" report generated from the Abandoned Well Reporting System and identified a discrepancy in the total number reported for plugged wells. We interviewed the Program Specialist for Water Well Drillers/Pump Installer program area and confirmed the "Abandoned Wells by Date" report indicated a total of 6 plugged wells for calendar year 2017 while the TCEQ Report indicated 16.

**Management's Response:** The Water Well Driller/Pump Installer Program Manager has developed an "abandoned well verification form" to provide for further independent review. The Business & Consumer Safety Section Manager will review and confirm by signature that source data matches what is reported in the Joint Groundwater Monitoring and Contamination Report to the TCEQ.

**Responsible Party:** Business and Consumer Safety Manager, Regulatory Program Management Division

**Implementation Date:** August 31, 2018

### Information Systems – Security & Disaster Recovery

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
HIGH	-	-	-	-	-
MODERATE	2	-	-	-	2
LOW	-	-	-	-	-
<b>Total</b>	<b>2</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>2</b>

**Finding 7 – MODERATE – Independent Review of Information Security Program:** TAC §202.26 (c) requires state agencies to obtain a review of the agency's information security program for compliance with state standards at least biennially, based on business risk management decisions; and, by individual(s) independent of the information security program. Our discussion with TDLR personnel indicated that although TDLR received an assessment from Gartner through its DCS contract in February 2014, such reviews are not conducted on a regular interval basis.

**Results: Finding not remediated**

As of the date of our follow-up procedures, corrective action has not been completed. Therefore, follow-up procedures were not performed.

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**Management's Response:** TDLR's funding request for independent review funding was denied by the legislature last session. However, TDLR has recently been informed by the Department of Information Resources (DIR) that it will undergo a DIR-sponsored information systems security assessment similar to the one conducted by Gartner several years ago. This assessment, performed in conjunction with AT&T, will begin on October 22, 2018, at no cost to TDLR. The assessment will study improvements TDLR has made based on the Gartner study's suggestions and DIR will also perform an analysis of any security gaps which might exist or improvements which might be needed. In subsequent biennia, the required independent information security review could be part of future audit plans provided by Internal Audit.

**Responsible Party:** Chief Information Officer

**Implementation Date:** November 1, 2018

**Finding 8 – MODERATE – Legacy Systems:** TDLR maintains various "legacy" software and hardware systems that consume a significant amount of IT staff resources. In example, TDLR is in the process of migrating from Windows Server 2003 (W2K3) to newer servers since W2K3 reached the end of its lifecycle in July 2015, when Microsoft ended its extended support. This migration process is estimated to continue for another year, which will constrain the IT resources allocated to other projects.

In another instance, TDLR maintains TOOLS, which is a legacy licensing application that supports only 2 of TDLR's programs/license types, and operates separately from TULIP, which is TDLR's primary online licensing application. We understand from our discussions with IT personnel that TOOLS was retained because of its unique features; however, its benefits may no longer outweigh its cost. Because of these types of decisions to be made, TDLR has established a project management team within the IT division to assist the agency in identifying, prioritizing and streamlining IT projects.

**Results:** Finding not remediated

As of the date of our follow-up procedures, corrective action has not been completed. Therefore, follow-up procedures were not performed.

**Management's Response:** The migration from the Windows Server 2003 was completed in July 2017 when it migrated to a newer, secure server. The data conversion of the final legacy system slated for removal has been more complicated than expected. The anticipated date for the removal of the last system is November 1, 2018.

**Responsible Party:** Chief Information Officer

**Implementation Date:** November 1, 2018

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#### Elevator, Escalator, and Related Equipment (ELE) Program

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
HIGH	1	1	-	-	-
MODERATE	-	-	-	-	-
LOW	-	-	-	-	-
<b>Total</b>	<b>1</b>	<b>1</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Finding 9 – HIGH – Certificate of Compliance Format:** TAC §74.60(a)(4) requires that a certificate of compliance issued by TDLR include the inspector's name and registration number. Our review of the pre-formatted certificate of compliance indicated that it does not have an area for inclusion of the inspector's name; although the inspector's registration number is present and the inspector's name can be obtained from TDLR's online search tool using the registration number.

**Results:** Finding remediated

We obtained the meeting minutes from the Elevator Advisory Board's meeting on May 1, 2018, at which the Board approved change as to revise Texas Administrative Code (TAC) §74.60(a)(4) to eliminate the inspector's name requirement from elevator certificates of compliance. We reviewed TAC §74.60(a)(4) and verified that the requirement for inspector's name was removed.

#### Licensed Breeders Program

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
HIGH	-	-	-	-	-
MODERATE	-	-	-	-	-
LOW	1	1	-	-	-
<b>Total</b>	<b>1</b>	<b>1</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Finding 10 – LOW – Periodic Inspections:** In accordance with TAC §91.52, each facility of a licensed breeder is required to be inspected at least once in every 18-month period. Our testing of 10 inspections disclosed 9 instances in which the periodic inspections were performed from 1 to 3 months after the 18 month period.

**Results:** Finding remediated

Based on our interview with the Field Operations Facilitator and review of supporting documentation, we verified TDLR has implemented changes to perform breeder facility inspections in a timely manner. The Field Operations Facilitator runs an Overdue Report on a monthly basis to monitor inspections overdue by region and program area. Trend analysis is also performed on a monthly basis comparing the total number of backlogged inspections to previous month's totals. We reviewed the backlog trend analysis and determined that since January 2018, the total number of backlogged inspections across multiple program areas has consistently decreased every month.

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We obtained a system generated report of all Breeder facilities registered with TDLR and analyzed the data to assess the timeliness of inspections performed on these entities within the past 18 months. We determined that inspections were completed within last 18 months for all 159 active licensed breeder facilities.

In addition, we selected a sample of 25 breeder facilities and verified entities were inspected according to TAC guidelines.

#### Records Retention

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
HIGH	-		-	-	-
MODERATE	-	-	-	-	-
LOW	1	-	-	-	1
<b>Total</b>	<b>1</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1</b>

**Finding 11 – LOW – Expiration of Retention Period – Imaging System:** Discussions with management disclosed that it is very seldom that documents are deleted from the Imaging System, which has been used by the TDLR for at least 12 years. According to the TDLR's Record Retention Schedule, the retention period for Source Documents to License/Register is fiscal year end plus ten years. Therefore, it is highly probable that records maintained in the Imaging System are eligible for permanent disposal.

**Results:** Finding not remediated

As of the date of our follow-up procedures, corrective action has not been completed. Therefore, follow-up procedures were not performed.

**Management's Response:** The initial release of the automatic purge system was August 31, 2018. The system is now in production.

**Responsible Party:** Chief Information Officer

**Implementation Date:** August 31, 2018

#### Enforcement Administration

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
HIGH	1		-	-	1
MODERATE	-	-	-	-	-
LOW	-	-	-	-	-
<b>Total</b>	<b>1</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1</b>

**Finding 12 – HIGH – Investigation Process:** 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.

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#### Results: **Finding not remediated**

We obtained a system generated report of all cases opened between November 1, 2016 and May 31, 2018. We selected a sample of 50 cases and verified the investigations were completed in a timely manner. Based on the date the case was assigned to an investigator to the date the investigation was completed, 17 out of the 50 cases examined were not completed timely.

**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

#### Combative Sports

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
<b>HIGH</b>	4	4	-	-	-
<b>MODERATE</b>	-	-	-	-	-
<b>LOW</b>	-	-	-	-	-
<b>Total</b>	<b>4</b>	<b>4</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Finding 13 – HIGH – Event Ticket Audit:** Event ticket audits are performed by the Compliance Division after every event to ensure that the proper amount of tax was received based on the number of tickets sold, as reported by the promoter. As part of the event ticket audit, the Compliance Section reviews the Promoter Tax Reports (see finding 14 below), as prepared by the promoter, to ensure it is complete and accurate and that the correct tax is computed and paid. Although the Combative Sports Procedures Manual references items that are used in performing the event ticket audit (ticket manifest, invoice, deadwood, and promoter tax report), there is not a standard format that is used to document performance of the audit. As such, evidence is not available to indicate that the audit was performed, which would also serve as indication that the Promoter Tax Reports were either accurately prepared or indicate the errors identified.

#### Results: **Finding remediated**

We interviewed the Deputy Director of Regulatory Program Management and reviewed the Combative Sports Program Procedures Manual and validated the TDLR has formalized the event ticket audit process to enhance validation and accuracy.

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Additionally, we interviewed the Policy Research and Budget Analyst and determined seven combative sporting events occurred from the implementation date of May 15, 2018 through June 22, 2018. We obtained the event files for all seven combative sporting events. For each selected sample item, we examined the event ticket documentation such as the ticket manifest and the Promoter Tax Report and verified the event ticket audit was adequately documented, as evidenced by the Inspector's signature and date stamp on the Promoter Tax Report.

**Finding 14 – HIGH – Promoter Tax Reports:** In accordance with Section 2052.151 of the Texas Occupations Code (TOC), promoters of combative sports events where an admission fee is charged, are assessed a 3% tax of gross ticket sales plus an additional 3% tax of gross broadcast rights sales; or, \$30,000, whichever is less. To comply with TOC Section 2052.151, promoters are required to complete a Promoter Tax Report (Report) at the end of each event or within 3 days of the event, that indicates the number of tickets sold, ticket price, and the tax owed, which is paid when the Report is completed. Our review of 3 Reports indicated the following:

- a) In one instance, the Report for an event that occurred on November 19, 2016 was incorrectly prepared by the promoter, which was later discovered through the event ticket audit performed by TDLR. The event ticket audit indicated that the number of tickets sold, as reflected in the Report, was understated by 6 tickets. Thus, in this instance, since the cost per ticket was \$75, there was a total of \$450 of unreported gross sales, which computes to an additional \$13.50 in the 3% tax owed. Furthermore, documentation was not available to determine if the promoter paid the additional tax owed.
- b) In this same instance, the Report was received by TDLR on November 28, 2016, which is a longer period than the required 3 business days from the day of the event

#### Results: **Finding remediated**

We verified TDLR has updated processes for tracking submissions of Promoter Tax Reports. We also interviewed the Policy Research and Budget Analyst and determined seven combative sporting events occurred from the implementation date of May 15, 2018 through June 22, 2018. We obtained the event files for all seven combative sporting events. For each selected sample item, we examined the event ticket documentation such as the ticket manifest and the Promoter Tax Report and verified the Promoter Tax Report received timely. In addition, we recalculated the amount of taxes owed by the Promoter and verified the Promoter Tax Report was accurate and complete.

**Finding 15 – HIGH – Inspections:** TDLR contracts with inspectors to be present at each combative sports event to supervise and inspect designated areas of the event and ensure illegal violations do not occur. During the hiring process, inspectors are required to watch all 11 online training videos that are available on the TDLR website; and, complete and pass a 20 question quiz to demonstrate their understanding of inspector responsibilities. However, during an event, the inspectors are not required to complete any form of documentation; such as, a checklist, to denote adherence to TDLR's established inspector responsibilities.

#### Results: **Finding remediated**

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We obtained and reviewed the Combative Sports Program Procedures Manual and verified the agency has developed an inspector responsibilities checklist to provide inspectors with additional guidance while performing inspections duties during an event. The checklist also provides TDLR with evidential documentation verifying the inspector performed duties, as required.

We interviewed the Policy Research and Budget Analyst and determined seven combative sporting events occurred from the implementation date of May 15, 2018 through June 22, 2018. We obtained the event files for all seven combative sporting events and verified the Inspector's Duties Checklist was complete and accurate.

**Finding 16 – HIGH – Administration of Drug Tests:** Beginning August 4, 2016, the Program began making a random selection of six contestants from each professional event for the administration of a drug test. The names of the randomly selected contestants are provided to TDLR's drug testing vendor and the promoter, at least 10 days prior to the event. We requested the listing of the randomly selected contestants for two selected events; however, the listing could not be located for one event. Therefore, we were unable to verify if any of the contestants from this event were randomly selected; and, therefore properly administered a drug test.

**Results: Finding remediated**

We interviewed the Deputy Director of Regulatory Program Management and reviewed the Combative Sports Program Procedures Manual and verified TDLR has updated processes for performing and documenting the administration of drug tests. TDLR has incorporated the use of an Inspector's Drug Testing Checklist as a requirement for verifying that the random selection notification email, consent form, chain of custody form, and drug test results are appropriately retained in the event file folder prior to closure. In addition, the listing of randomly selected contestants is converted to PDF format to prevent any modification and saved to the internal shared network drive.

We interviewed the Policy Research and Budget Analyst and determined seven combative sporting events occurred from the implementation date of May 15, 2018 through June 22, 2018. We examined the event files for all seven combative sporting events and verified randomly selected contestants were adequately drug tested.

**Other Programs**

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
HIGH	-	-	-	-	-
MODERATE	-	-	-	-	-
LOW	1	-	-	1	-
<b>Total</b>	<b>1</b>	-	-	<b>1</b>	-

**Finding 17 – LOW – Weather Modification Program:** The Program Specialist either reports to or seeks advice from the Advisory Committee over technical matters related to the Program before significant technical decisions are made. However, documentation is not retained that provides evidence of such communication. Some examples of communications/practices that are not documented are as follows:

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(1) TAC 79.33 requires a weather modification licensee to submit to TDLR the monthly operational flight data and a copy of the annual operations report submitted to the National Oceanic and Atmospheric Administration (NOAA). Our testing of 3 weather modification licensees disclosed one instance where TDLR made an exceptional reporting arrangement with the licensee. In this instance, the Program Specialist requested that the licensee report to TDLR a quarterly operations summary in lieu of reports required by TAC 79.33 since the licensee's unique operation did not produce flight data nor require periodic NOAA reporting. Although the reason for the arrangement between TDLR and this licensee appears reasonable, TDLR does not have documented procedures to address these types of exceptions, and there was no record that the exceptional arrangement was recommended by the Advisory Committee.

(2) TAC 79.18 requires a weather modification permit applicant to demonstrate their ability to pay for a liability; such as, a liability insurance policy, that might reasonably arise as a result of the proposed operation. Since the TAC does not specify the types and amount of insurance required, TDLR, with the verbal authorization from the advisory committee, a number of years ago, determined that a \$1 million liability insurance coverage was adequate based on the industry standard. However, neither the advisory committee's authorization nor the insurance requirement is documented.

## Results: Finding partially remediated

We reviewed the Weather Modification Advisory Board meeting minutes and verified the liability insurance limit of \$1 million for a Texas weather modification permit was approved by the Board.

Additionally, the Board concluded staff should draft language to update and clarify reporting requirements including documenting exceptional arrangements. The proposed changes will be reviewed in a future Weather Modification Advisory Committee meeting.

**Management's Response:** Liability insurance policy limits were set at \$1 million by the Texas Weather Modification Advisory Committee at its meeting on June 7, 2018.

TDLR has drafted a rule change that would codify the requirement for ground-based weather modification operations to report quarterly to the Department rather than monthly. This proposed rule change was discussed and recommended by the Texas Weather Modification Advisory Committee at its meeting on June 7, 2018. Staff plans to publish the proposed rule in the Texas Register for a 30-day public comment period in September 2018. The target date for the effective date of the rule is January 2019.

**Responsible Party:** Research and Analytics Specialist

**Implementation Date:** January 1, 2019

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## Performance Measures

Risk Rating	Total Findings	Remediated	Closed by Management	Partially Remediated	Open
HIGH	-		-	-	-
MODERATE	-	-	-	-	-
LOW	2	1	-	-	1
Total	2	1	-	-	1

**Finding 18 – LOW – Total Number of Inspections Completed – Boilers:** Our testing indicated that TDLR reported inaccurate results for this performance measure due to the inspections completed for the Boilers program not consistently entered into the Jurisdiction Online (JO) database in a timely manner. Although the reporting period has been extended for 3 months past the target reporting date, the inspections are not being completely and consistently entered on a timely basis. As a result, since the data to calculate this performance measure is obtained from the JO database, it is not complete and results in inaccurate reporting. We compared the number of inspections completed as reported in ABEST to the number reported in the JO database for the months ended August 2016 and February 2017, which indicated that the number reported in ABEST was 476 or 21%; and, 521 or 28%, less than what was reflected in the JO database for the periods tested.

### Results: Finding remediated

TDLR identified one third party inspector was not consistently entering inspections performed into the Jurisdiction Online (JO) database. Based on our interview with the Executive Assistant of Regulatory Program Management and review of the Board of Boiler Rules meetings minutes, we verified the agency implemented changes to assume data entry duties into the JO Database on behalf of the inspector to ensure that inspection reporting is complete and accurate.

Weaver evaluated the internal reports information against the figures reported to ABEST for all months since new reporting processes were implemented on September 1, 2017, in order to verify that the performance measure results reported in ABEST match the organization's internal Performance Metrics reports. For all reporting months selected, we identified discrepancies in the total number of boiler inspections completed by the Agency and the total number of boiler inspections completed by a third party. In aggregate, however, the totals reported in ABEST match the organization's internal Performance Metrics reports. Any changes to the status of boilers becoming insured or uninsured effects the classification of the inspection being performed by a third party or by the agency. As such, we do not consider this to be an exception.

**Finding 19 – LOW – Total Number of Inspections Completed – Elevators:** 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.

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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.

**Results: Finding not remediated**

As of the date of our follow-up procedures, corrective action has not been completed. Therefore, follow-up procedures were not performed.

**Management's Response:** The agency asked for a one-quarter delay in reporting elevator inspections for performance measures to allow for the time period inspectors are given to submit inspection reports and prevent inspections which are reported late from not being counted in the proper time period. The request was approved the Governor's Office and the Legislative Budget Board and the new procedures will begin September 2019. In the meanwhile, the Regulatory Program Management Division has been reaching out to elevator inspectors to remind them when inspection reports must be submitted to the Department. If an inspector continues to file inspection reports late, a case for prosecution may be opened by the Enforcement Division.

**Responsible Party:** Research and Analytics Specialist

**Implementation Date:** March 1, 2020

# 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