

Texas Department of Licensing and Regulation

IA # 2020-04 Internal Audit Follow-Up Procedures

Report over Prior Years' Open Internal Audit Findings

June 26, 2020

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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 May 19, 2020, through June 26, 2020, 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 June 26, 2020.

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

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Austin, Texas
August 25, 2020

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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 2020 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.

We have determined that corrective actions to remediate the two outstanding internal audit findings, while in process, have not yet been completed to remediate the issues. These findings will be re-assessed for remediation at the next scheduled follow-up.

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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 two findings we evaluated for corrective actions, both have been partially remediated.

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

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

FOLLOW-UP ASSESSMENT	Satisfactory
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SCOPE AREA	RESULT	RATING
Objective: 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 partially remediated the two outstanding internal audit findings. TDLR management should continue their efforts to ensure timely inspections of VSF licensees and accurate performance measure reporting in ABEST.	Satisfactory

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 two remaining partially remediated internal audit findings by ensuring that inspections of VSF licensees are completed timely and performance measure information is accurately reported in ABEST.

Follow-up procedures should be conducted in Fiscal Year 2021 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.

2020 - Results: Finding partially remediated

TDLR stopped performing tow truck inspections in February 2019 and booting was deregulated in September 2018. TDLR Management advised that overdue VSF inspections were reduced from 34% to approximately 20% since last follow-up; however, inspections were suspended in March 2020 for COVID-19 health and safety purposes, which limited management's ability to further reduce the number of overdue inspections.

While progress has been made in reducing the number of overdue VSF inspections, corrective actions have not been fully implemented. Therefore, this finding will be assessed for remediation at the next scheduled follow up.

Management's Response: With the onset of coronavirus inspections have been thrown into flux. Inspections were suspended in March until it was deemed safe to recommence them. TDLR began conducting inspections again on June 9, 2020. However, with the resilience of the virus and so many unknown factors about the future, we cannot be certain inspections will not be suspended again. We are therefore looking into other approaches to conduct inspections to minimize the potential risk to inspectors and the personnel and consumers in the facilities.

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Factors being considered for future inspections: basing a facility's inspection cycle on an overall risk factor determined by the number, frequency, and seriousness of violations found in previous inspections, allowing some facilities to be inspected less frequently; performing virtual inspections through video/telephony; performing desk audits when appropriate; or any combination of these strategies. If it happens that none of these strategies are appropriate for VSF inspections and they must be done in person on site, the time saved by performing altered inspections in other programs will allow for more time to be spent on VSF inspections.

Responsible Party: Director of Field Inspections
Implementation Date: May 31, 2020

Performance Measures (2017)

Risk Rating	Total Findings	Previously Remediated	Remediated	Partially Remediated	Open
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.

2020 - Results: Finding partially remediated

In order to be able to more accurately report the number of completed elevator inspections, TDLR received joint approval from the Governor's Office and the Legislative Budget Board to report inspections quarterly in arrears. However, due to staffing changes TDLR did not correctly report elevator inspections for the period February-April 2020. Subsequent to the second-quarter reporting, TDLR re-assigned the reporting responsibility to a new data analyst. We have reviewed the updated internal reporting and we expect the ABEST reporting in the third quarter to correctly report the inspections for first, second, and third quarters. This finding will be assessed for remediation at the next scheduled follow up.

Management's Response: With the correction of the procedures which now detail that there is to be a one-quarter delay for elevator inspections when reported for performance measures, and with the hiring of a data analyst who is solely responsible for and dedicated to the reporting the inspection numbers and performance measures, we believe this finding has been fully remediated and will be found to be fully remediated in the next audit.

Responsible Party: Director of Regulatory Program Management
Implementation Date: July 1, 2020

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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