

# Board Meeting Agenda Book

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Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

**TxDMV Board Meeting**

**8:00 a.m.**

**Thursday, October 4, 2018**

**AGENDA**  
**BOARD MEETING**  
**TEXAS DEPARTMENT OF MOTOR VEHICLES**  
**4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM**  
**AUSTIN, TEXAS 78731**  
**THURSDAY, OCTOBER 4, 2018**  
**8:00 A.M.**

All agenda items are subject to possible discussion, questions, consideration, and action by the Board of the Texas Department of Motor Vehicles (Board). Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of their consideration by the Board. Presentations may be made by the identified staff or Board member or other staff as needed. The Board reserves the right to discuss any items in executive session where authorized by the Open Meetings Act.

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**1. Roll Call and Establishment of Quorum**

**2. Pledge of Allegiance**

**3. Chair's Reports** - Chairman Raymond Palacios  
[Proposed 2019 Board Meeting Schedule](#)

**4. Executive Director's Reports** - Whitney Brewster

A. [Overview of FY 2019 Operational Plan](#)

B. Update on Fraud Training for County Tax Assessor-Collectors

C. [Introduction of Human Resources Director, Matthew Levitt](#)

D. Awards, Recognition of Years of Service, and Announcements

**CONTESTED CASE**

**5. Licensure Application Denial and Appeal to SOAH under Occupations Code, §53.021 and §53.022; and under 43 Texas Administrative Code §§215.88(i), 215.89(b), and 215.306.** MVD Docket No. 18-0183795.ENF; SOAH Docket No. 608-18-3358.ENF; [Texas Department of Motor Vehicles, Enforcement Division v. Marshone Sheppard d/b/a MFJ Auto Shop](#) - Daniel Avitia and Brian Coats

**RULE - ADOPTION**

**6. Chapter 215, Motor Vehicle Distribution** - Corrie Thompson  
Amendments, §215.155

[\(Relating to exemptions from the vehicle inspection requirements under Transportation Code, Chapter 548\)](#)

*(Proposal Published July 6, 2018 - 43 Tex. Reg. 4547)*

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**PAGE RULES - PROPOSAL**

- 40** 7. **Chapter 219, Oversize and Overweight Vehicles and Loads**  
A. [Rule Review, Government Code, §2001.039](#) - Aline Aucoin  
B. Amendments, §219.101  
[\(Relating to notice of the designated time and location for inspector to inspect records\)](#) - Corrie Thompson
- 48** 8. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz  
Amendments, §217.27  
[\(Relating to personalized license plates\)](#)
- 60** 9. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz  
Amendments, §217.84  
[\(Relating to proof of paid claim and salvage language cleanup\)](#)

**BRIEFINGS AND ACTION ITEMS**

- 75** 10. **Legislative and Public Affairs Committee Update** - Committee Chair Treviño  
*Consideration of Committee Recommendations and Briefings:*
- 76** A. [Board Approval of Recommended Legislation to the 86th Legislature Pursuant to Transportation Code, §1001.025](#) - Caroline Love
- 83** B. [Agency Process for Legislative Session, including continuing Sunset Legislation Process](#) - Caroline Love (BRIEFING ONLY)
- 89** C. [Implementation of Sunset Advisory Commission's Recommendations](#) - Whitney Brewster (BRIEFING ONLY)
- 89** D. [Board Approval of Policy, TxDMV Guidance on Enforcement Case Prioritization and Complaint Resolution, to Implement Sunset Advisory Commission's Recommendations 3.4. and 3.5](#) - Corrie Thompson
- 93** 11. **Finance and Audit**
- 110** A. [Internal Audit Charter](#) - Sandra Menjivar-Suddeath
- 110** B. [Internal Audit Division Status Report](#) - Sandra Menjivar-Suddeath (BRIEFING ONLY)  
- FY 2018 Fourth Quarter Follow-Up Activities Memorandum  
- FY 2018 Annual Audit Report  
- FY 2018 Quality Assurance and Improvement Program Report
- 164** C. [FY 2020 - 2021 Legislative Appropriation Request, Baseline and Exceptional Items](#) - Linda M. Flores and Renita Bankhead (BRIEFING ONLY)
- 181** D. [Fourth Quarter Financial Summary](#) - Linda M. Flores and Renita Bankhead (BRIEFING ONLY)

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**12. Projects and Operations**

- A. Delegation of Signature Authority to the Executive Director for Execution of the Kiosk Pilot Contract - Jonathan O'Quinn
- B. Progress Report on Operations of Compliance and Investigations Division - Tim Menke (BRIEFING ONLY)

**EXECUTIVE SESSION**

**13. The Board may enter into closed session under one or more of the following provisions of the Texas Open Meetings Act, Government Code, Chapter 551:**

- **Section 551.071** - Consultation with and advice from legal counsel regarding:
  - pending or contemplated litigation, or a settlement offer;
  - a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code, Chapter 551; or
  - any item on this agenda.
- **Section 551.074** - Personnel matters.
  - Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel.
- **Section 551.089** - Security devices or security audits:
  - the deployment, or specific occasions for implementation, of security personnel or devices; or
  - a security audit.

**14. Action Items from Executive Session**

**15. Public Comment**

**16. Adjournment**

The Board will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Board. No action will be taken on matters that are not part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Board members may respond in accordance with Government Code, Section 551.042 and consider the feasibility of placing the matter on the agenda for a future meeting.

Agenda items may be presented by the named presenters or other TxDMV staff.

Pursuant to Sections 30.06 and 30.07, Penal Code (trespass by license holder with a concealed or openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun or a handgun that is carried openly.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact Carrie Fortner by telephone at (512) 465-3044.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Sarah Swanson, Associate General Counsel, (512) 465-5665.

## 2019 Board Meeting Hold Dates are highlighted yellow

Hold dates when a meeting should occur; but at the call of the Chairman. Start time is 8:00 a.m. Once the need for a meeting is established, availability and quorum will be confirmed with all Board Members. Weekdays in red are State Holidays.

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DATE: October 3, 2018

Action Requested: BRIEFING

**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Office of Innovation and Strategy  
**Agenda Item:** 4A  
**Subject:** Update on Fiscal Year (FY) 2019 TxDMV Operational Plan

## PURPOSE AND EXECUTIVE SUMMARY

The purpose of the agenda item is to provide the Board with an update on the FY 2019 TxDMV Operational Plan.

The FY 2019 Operational Plan contains 38 initiatives including those proposed or authorized by a TxDMV division, the Sunset Commission, statute/rule or TxDMV's Balanced Scorecard. Finally, some initiatives are single-year and some are multi-year.

More specifically, the initiatives can be categorized as follows:

Single-year vs. multi-year initiatives

- 15 single-year initiatives
- 23 multi-year initiatives

Basis for the initiative

- 21 Division proposed
- 4 Sunset Commission proposed
- 2 Balanced Scorecard proposed
- 11 Statute/Rule proposed

Highlights of some of the FY 2019 TxDMV Operational Plan Initiatives include:

- ABTPA's *Rapid Response Strike force Funding*
- Compliance and Investigation's *Implement FileNet at Fusion Centers*
- Enforcement's *Improve Complaint Resolution*
- Enterprise Project Management Office's *Implement Microsoft Project One*
- Finance and Administrative Service's *Automation of Motor Vehicle Refunds*
- Government and Strategic Communication's *Reduction of Customer Confusion through Public Information*
- Human Resource's *Develop and Deploy Training as Described in the Balanced Scorecard*
- Information and Technology Service's *New Data Subscription Payment Portal*
- Motor Vehicle's *Canceled Plate Return Process*
- Office of Administrative Hearing's *Publish All Lemon Law and Warranty Performance Decisions and Final Orders on the TxDMV Website*
- Office of General Counsel's *Rules and Dockets Pages*
- Vehicle Titles and Registration's *New Master Data Contract*

**Matthew Levitt**  
Division Director  
Human Resources Division  
Texas Department of Motor Vehicles



He has over twenty-five years of human resources management experience, primarily in Texas State Government. Prior to coming to the TxDMV, Matthew was a consultant with the Texas Association of School Boards working with school districts across Texas.

Previously, he was the HR Director at the Texas School for the Deaf and was the HR manager at other Texas State agencies where he managed and performed the full range of HR functions.

He has been involved in statewide HR projects for Texas State Government including: conducting statewide compensation and classification reviews, assisting in the development of the biennial legislative reports on changes to the state compensation system, managing contractor data reporting, developing an online HR self-assessment guide, and managing the reporting and analysis of state employee turnover.

He taught college level business classes for fifteen years and was selected as the outstanding instructor at Concordia University's Accelerated Degree Program in 2006-2007. He received his Senior Professional in Human Resources (SPHR) certification in 1997 and is a past president of the Texas State Human Resources Association. Matthew has a bachelor's degree in economics from Antioch College and an MBA from the University of Texas at Austin.

DATE: October 4, 2018

Action Requested: APPROVAL/BRIEFING

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**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Daniel Avitia, Director, Motor Vehicle Division  
**Agenda Item:** 5  
**Subject:** Licensure Application Denial and appeal to SOAH under Texas Occupations Code §§ 53.021 and 53.022; and under Texas Administrative Code §§ 215.88(i), 215.89(b), 215.306. *Texas Department of Motor Vehicles v. Marshone Sheppard d/b/a MFJ Auto Shop*; MVD Docket 18-0183795.ENF, SOAH Docket No. 608-18-3358.ENF.

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#### RECOMMENDATION

Staff recommends the Board adopt the ALJ's findings of fact and conclusions of law. A draft of the Final Order is attached to this Executive Summary for the Board's consideration.

#### PURPOSE AND EXECUTIVE SUMMARY

The State Office of Administrative Hearings (SOAH) issued a Proposal for Decision (PFD) for consideration by the Board of the Texas Department of Motor Vehicles.

#### FINANCIAL IMPACT

None

#### BACKGROUND AND DISCUSSION

On or about November 30, 2017, Marshone Sheppard d/b/a MFJ Auto Shop (Respondent) submitted an application to obtain a motor vehicle dealer license. The Motor Vehicle Division (MVD) reviewed and recommended Respondent's application be denied based on Respondent's criminal history. MVD referred the matter to the Enforcement Division to seek the denial of Respondent's application for a motor vehicle dealer license.

The Enforcement Division referred the contested case matter to the State Office of Administrative Hearings (SOAH) on or about April 27, 2018. The ALJ conducted the hearing on the merits on June 27, 2018. The proposal for decision (PFD) was issued on August 22, 2018.

The following documents are attached to this Executive Summary for consideration by the Board:

1. Notice of Department's Decision to Deny Application, March 2, 2018;
2. Applicant's Request for Administrative Hearing Form, March 20, 2018;
3. SOAH ALJ's PFD, August 22, 2018; and
4. Draft Order for Board Consideration.

TXDMV  
MAR 20 2018  
ENFORCEMENT DIVISION

### REQUEST FOR ADMINISTRATIVE HEARING

If you intend to contest the allegations listed in the Notice of Department of Decision in this matter or negotiate a settlement with the assigned enforcement division attorney you must first request an administrative hearing. You may use this form to request a hearing.

I request a hearing in Texas Department of Motor Vehicles Case No. 18-0183795 ENF. (The Case Number is found in the heading of the Decision; i.e. MVD Case No. 17-000000.ENF).

**NOTE: Failure to include the Case Number of this matter on this request may result in no hearing being scheduled and loss of the opportunity to settle this matter before a Final Order is issued.**

Name of person requesting hearing: MARSHONE SHEPPARD

(Please Print)

Phone Number of person requesting hearing: (806) 939-2621

Email Address of person requesting hearing: caprice.stopp@yachoo.com

Would you like to discuss a resolution to this case without a hearing:  Yes  No  
(CONTACT ME FIRST PLEASE)

***This request for hearing must be received at the below address no later than 26 days from the date of the Notice of Department Decision in this matter.***

TEXAS DEPARTMENT OF MOTOR VEHICLES  
ENFORCEMENT Division  
4000 Jackson Avenue – Austin, Texas 78731

This request may also be faxed to phone number (512) 465-5650

PBC

608106110000140710



# State Office of Administrative Hearings



Lesli G. Ginn  
Chief Administrative Law Judge

August 22, 2018

Daniel Avitia, Director  
Motor Vehicle Division  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

**VIA INTERAGENCY MAIL**

RE: **Docket No. 608-18-3358.ENF; MVD Docket No. 18-0183795 / *The Texas Department of Motor Vehicles, Enforcement Division v. Marshone Sheppard, D/B/A MFJ Auto Shop***

Dear Mr. Avitia:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

  
\_\_\_\_\_  
LAURA M. VALDEZ  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

LMV/lmc  
Enclosure

cc: Brian Coats, Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 400 Jackson Ave., Austin, TX 78731 - **VIA INTERAGENCY MAIL**  
Marshone Sheppard d/b/a MFJ Auto Shop, 8901 Highway 87 Unit 131, Lubbock, TX 79423-7316 - **VIA REGULAR MAIL**  
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL**

**SOAH DOCKET NO. 608-18-3358.ENF  
MVD NO. 18-0183795**

<p><b>TEXAS DEPARTMENT OF MOTOR VEHICLES, ENFORCEMENT DIVISION, Petitioner</b></p>	<p>§ § § § § § § § § §</p>	<p style="text-align: right;"><b>BEFORE THE STATE OFFICE</b></p> <p style="text-align: center;"><b>OF</b></p> <p style="text-align: right;"><b>ADMINISTRATIVE HEARINGS</b></p>
<p><b>v.</b></p> <p><b>MARSHONE SHEPPARD, D/B/A MFJ AUTO SHOP, Respondent</b></p>		

**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Motor Vehicles (Department) seeks to deny the application of Marshone Sheppard, d/b/a MFJ Auto Shop, for a Dealer General Distinguishing Number (GDN) to operate as an independent motor vehicle dealer (Application). Staff contends Mr. Sheppard's application should be denied because of his criminal history. In this Proposal for Decision (PFD), the Administrative Law Judge (ALJ) concludes that Mr. Sheppard's application should be denied.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

There are no issues of notice or jurisdiction in this proceeding. Therefore, these matters are addressed in the Findings of Fact and Conclusions of Law sections of this PFD without further discussion.

The hearing was held June 27, 2018, before ALJ Laura M. Valdez in Austin, Texas. Staff was represented by Patrick Coats, Enforcement Division attorney. Mr. Sheppard appeared and represented himself. The record closed and the hearing concluded that day.

## II. DISCUSSION

Staff presented the testimony of Licensing Manager Antonia Knight and offered 11 exhibits, which were admitted.<sup>1</sup> Mr. Sheppard testified on his own behalf.

### A. Applicable Law

The Department is authorized to deny an application if the applicant has been convicted of an offense that directly relates to the duties and responsibilities of a GDN.<sup>2</sup> The Department may deny an application after consideration of the factors listed in Occupations Code §§ 53.022 and 53.023, and the guidelines issued by the Department pursuant to Occupations Code § 53.025.<sup>3</sup> Further, even if an applicant has not been convicted of a crime “directly related to” the profession and that does not directly relate to the duties and responsibilities of the licensed application, the Department may deny an application if the applicant has been convicted of an offense that was committed less than five years before the date the applicant applied for a license.<sup>4</sup>

The Department is also authorized to deny, revoke, or suspend a license, and assess a civil penalty, if the Department determines that the person is unfit to perform the duties and discharge the responsibilities of a license holder.<sup>5</sup> In determining a person’s fitness for licensure, the Department will consider: (1) the requirements of Texas Occupations Code chapter 53; (2) the provisions of Texas Occupations Code § 2301.651; (3) any specific statutory licensing

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<sup>1</sup> Two of the exhibits (Exs. 10 & 11) were submitted by Mr. Sheppard directly to the Department. Ex. 10 consisted of four letters of support. Ex. 11 consisted of documentation regarding Mr. Sheppard’s work history.

<sup>2</sup> 43 Tex. Admin. Code § 215.88 (i)(1).

<sup>3</sup> 43 Tex. Admin. Code § 215.88 (i)(1).

<sup>4</sup> 43 Tex. Admin. Code § 215.88 (i)(2).

<sup>5</sup> 43 Tex. Admin. Code §§ 215.141(a)(1)-(4), (b)(17); .89(b). At the hearing, Staff clarified that a civil penalty is not being sought in this case.

requirements; (4) mitigating factors; and (5) other evidence of a person's fitness as allowed by law, including the standards identified in the Department's rule on fitness.<sup>6</sup>

In deciding whether to deny an application because of a conviction, the Department must determine whether that person nonetheless is fit to perform the duties and discharge the responsibilities of the licensed profession. In addition to the factors listed in Code § 53.022, the Department is required to consider the following factors set forth in § 53.023:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) other evidence of the person's fitness, including letters of recommendation from:
  - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
  - (B) the sheriff or chief of police in the community where the person resides; and
  - (C) any other person in contact with the convicted person.<sup>7</sup>

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<sup>6</sup> 43 Tex. Admin. Code § 215.89(a)(1)-(5).

<sup>7</sup> Tex. Occ. Code (Code) § 53.023(a).

An applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority, in this case the Department, the recommendations of the prosecution, law enforcement, and correctional authorities discussed above.<sup>8</sup> Additionally, an applicant must furnish proof in the form required by the licensing authority that he has:

- (1) maintained a record of steady employment;
- (2) supported his dependents;
- (3) maintained a record of good conduct; and
- (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.<sup>9</sup>

#### **B. Evidence**

On November 30, 2017, Mr. Sheppard, submitted his Application to the Department's Motor Vehicle Division for a GDN to operate as an independent motor vehicle dealer. The Department conducted a review of Mr. Sheppard's Application, and determined that Mr. Sheppard failed to meet the requirements for a motor vehicle dealer license due to his criminal history. Specifically, the Department's investigator found that Mr. Sheppard's criminal history included:

- On or about 6/22/2005, in the County Court at Law No. 2 for Lubbock County, Texas, Mr. Sheppard was convicted of the misdemeanor offense of Possession of Marijuana in Case No. 2005-492739.
- On or about 1/06/2006, in the County Court at Law No. 2 for Lubbock County, Texas, Mr. Sheppard was convicted of the misdemeanor offense of Failure to Identify in Case No. 2005-4535-7391.
- On or about 5/27/2008, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard was convicted of the misdemeanor offense of Possession of Marijuana < 2 Ounces in Case No. 20013-442001.

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<sup>8</sup> Code § 53.023(b).

<sup>9</sup> Code § 53.023(c).

- On or about 5/27/2008, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard was convicted of the misdemeanor offense of Deadly Conduct in Case No. 2008-450533.
- On or about 7/18/2011, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard was convicted of the misdemeanor offense of Possession of Marijuana < 2 Ounces in Case No. 2009-4572117.
- On or about 7/18/2011, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard was convicted of the misdemeanor offense of Failure to Identify in Case No 2010-460439.
- On or about 11/13/2014, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard was convicted of the misdemeanor offense of Possession of Marijuana < 2 Ounces in Case No 2014-479951.

In Ms. Knight's capacity as Licensing Manager, she manages the personnel and activities of the Department's licensing division. She explained that the recommendation to deny Mr. Sheppard's application was based on his criminal history, which contained crimes directly related to a GDN. Specifically, Ms. Knight testified that Mr. Sheppard's four Class B misdemeanor convictions for possession of less than 2 ounces of marijuana, constitute crimes directly related to an automobile dealer. In support of this, Staff provided a copy of the Department's guidelines as outlined in the Texas Register adopting the guidelines.<sup>10</sup>

At the hearing, Mr. Sheppard admitted that he had been convicted of the alleged crimes and explained some of the circumstances of some of the crimes. Mr. Sheppard explained that for some of the arrests he was, essentially, at the wrong place, at the wrong time, with the wrong people. As a result, he was swept up in the police arrests. Mr. Sheppard testified that he has turned his life around and no longer associates with those individuals.

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<sup>10</sup> 39 Tex. Reg. 7996-8012 (2014).

In support of his Application he presented evidence of his work history since 2014 and five letters of support of his Application, which were submitted to the Department. Specifically, a letter from City of Lubbock City Council Member Sheila Patterson Harris stated that she personally knows Mr. Sheppard and his criminal history. Ms. Harris stated that Mr. Sheppard continues to make positive choices and decisions that affect his life . . . and his children.”<sup>11</sup> The second letter of support was submitted was by Gabe Palacios of the Southcrest Baptist Church. Mr. Palacios stated that he has known Mr. Sheppard since the mid-2000s, when the two worked together. Mr. Palacios observed Mr. Sheppard to be a devoted father, and a very dependable person who performed tasks above expectations and who had a “contagious positive attitude.”<sup>12</sup> The third letter of support was from Terry Humphrey, who has known Mr. Sheppard since Mr. Sheppard was in middle school. Mr. Humphreys stated that Mr. Sheppard is a “good, well mannered, respectful young man.”<sup>13</sup> The fourth letter in support was submitted to the Department by Mr. Sheppard himself.<sup>14</sup> In his letter to the Department, Mr. Sheppard acknowledged his criminal past and he has since taken responsibility for his actions. He acknowledged that he has changed his ways and devoted himself to being a model citizen to his children. He also asks for an opportunity to give him a change to “show that people do make mistakes, but do change.” In the fifth letter of support, Mr. Kennedy of 1 and 2 Automotive Sales, stated that Mr. Sheppard has been a “major help in our community,” who has donated \$300 to a children’s t-ball team and Mr. Sheppard painted over 200 helmets for the children’s football team. Mr. Kennedy concluded that “there is nothing to say bad about this man or his character.”<sup>15</sup>

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<sup>11</sup> Staff Ex. 10 at 1.

<sup>12</sup> Staff Ex. 10 at 2.

<sup>13</sup> Staff Ex. 10 at 3.

<sup>14</sup> Staff Ex. 10 at 4.

<sup>15</sup> Staff Ex. 11 at 2.

**C. ALJ's Analysis**

Mr. Sheppard has seven misdemeanor criminal convictions occurring between 2005 and 2014. Each of these crimes is for a crime that directly relates to the duties and responsibilities of a dealer.<sup>16</sup> Therefore, Mr. Sheppard's convictions may constitute grounds for the Department to deny his Application for licensure, pursuant to Texas Occupations Code § 53.021(a).

Furthermore, the Department may also deny an application if the applicant was convicted of a crime, not directly related to the licensed occupation, and that was committed less than five years before the date the person applies for the license.<sup>17</sup> There is no dispute Mr. Sheppard was convicted of a Class B misdemeanor possession of less than 2 ounces of marijuana in 2014, and the crime was committed in 2013, less than 5 years before his Application.

Given Mr. Sheppard's convictions, the ALJ must determine whether Mr. Sheppard is fit to hold a GDN license.<sup>18</sup> Therefore, the ALJ must consider the evidence presented regarding the factors listed in the Texas Occupations Code § 53.023. The ALJ has considered each of the factors and ultimately concludes they do not support licensure. For ease of reference, the ALJ finds it appropriate to set out the factors in a chart below, along with the ALJ's analysis of each factor:

FACTOR	ANALYSIS
The extent and nature of the person's past criminal activity	Mr. Sheppard has seven criminal convictions, spanning a period of approximately 9 years. This shows an ongoing pattern of criminal behavior by Mr. Sheppard, rather than behavior occurring in an isolated period of time. Thus, this factor weighs <b>AGAINST</b> licensure.

<sup>16</sup> 43 Tex. Admin. Code § 215.89(b).

<sup>17</sup> 43 Tex. Admin. Code § 215.88 (i)(2).

<sup>18</sup> Tex. Occ. Code § 2301.651(a)(1)-(2); Tex. Transp. Code § 503.034(a)(1); 43 Tex. Admin. Code §§215.89(b)(7)-(8); .141(a), (b)(17).

SOAH DOCKET NO. 608-18-3358.ENF  
MVD CAUSE NO. 18-0183795

## PROPOSAL FOR DECISION

PAGE 8

FACTOR	ANALYSIS
The age of the person when the crime was committed	Mr. Sheppard was approximately 19 years old when his first conviction occurred, and was approximately 28 years old when his 2014 conviction occurred. Thus, this factor weighs <b>AGAINST</b> licensure.
The amount of time that has elapsed since the person's last criminal activity	Mr. Sheppard's most recent criminal conviction was for conduct occurring in 2013, almost 5 years ago. Therefore, a reasonable period of time has elapsed since Mr. Sheppard's last criminal activity. Therefore, this factor is <b>NEUTRAL</b> .
The conduct and work activity of the person before and after the criminal activity	Mr. Sheppard has maintained a continuous history of regularly working. Therefore, this activity weighs <b>FOR</b> licensure.
Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release	The ALJ finds that there was no evidence presented regarding this factor. Thus, this factor weighs <b>AGAINST</b> licensure.
Other evidence of the person's fitness, including letters of recommendation from prosecutors, law enforcement and correctional officers; the sheriff or chief of police in the community where the person resides; and any other person in contact with the convicted person	Mr. Sheppard provided numerous reference letters of his character during the application process. However, these letters are character references and not letters of recommendation "from prosecutors, law enforcement and correctional officers; the sheriff or chief of police in the community where the person resides." Given the evidence, the ALJ finds that the letters submitted by Mr. Sheppard do not provide adequate evidence of his fitness. Therefore, this factor is <b>NEUTRAL</b> .
Evidence that Mr. Sheppard maintained a record of steady employment	Mr. Sheppard has maintained a continuous history of regularly working. Therefore, this activity weighs <b>FOR</b> licensure.
Evidence that Mr. Sheppard has supported his dependents	There is no contention that Mr. Sheppard has failed to provide for his dependents. This factor weighs <b>FOR</b> licensure.

SOAH DOCKET NO. 608-18-3358.ENF  
MVD CAUSE NO. 18-0183795

PROPOSAL FOR DECISION

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FACTOR	ANALYSIS
Evidence that Mr. Sheppard has maintained a record of good conduct	Mr. Sheppard's numerous convictions over a span of decades indicate that Mr. Sheppard has not been able to maintain a record of good conduct over an adequate period of time. Therefore, this factor weighs <b>AGAINST</b> licensure.
Evidence that Mr. Sheppard has paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted	Insufficient evidence was offered of this, so this factor is <b>NEUTRAL</b> .

Based on the evidence presented, the ALJ finds that after weighing the evidence and considering the totality of the applicable factors for licensure, the ALJ concludes that Mr. Sheppard's application should be denied. At best, the Chapter 53 factors are mixed, with the more significant factors weighing against licensure. Overall, given Mr. Sheppard's criminal history, the ALJ concludes that the Chapter 53 factors do not weigh in favor licensure. Thus, the ALJ concludes the Department correctly denied Mr. Sheppard's application. In support of this determination, the ALJ makes the following Findings of Fact and Conclusions of Law.

### III. FINDINGS OF FACT

1. On November 30, 2017, Marshone Sheppard, d/b/a MFJ Auto Shop, submitted an application to the Texas Department of Motor Vehicles – Motor Vehicle Division (Department) for a Dealer General Distinguishing Number (GDN) to operate as an independent motor vehicle dealer (Application).
2. The Department conducted a review of Mr. Sheppard's Application, and determined that Mr. Sheppard failed to meet the requirements for a motor vehicle dealer license due to his criminal history.
3. On or about 6/22/2005, in the County Court at Law No 2 for Lubbock County, Texas, Mr. Sheppard, was convicted of the misdemeanor offense of Possession of Marijuana in Case No. 2005-492739.

SOAH DOCKET NO. 608-18-3358.ENF  
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PROPOSAL FOR DECISION

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4. On or about 1/06/2006, in the County Court at Law No. 2 for Lubbock County, Texas, Mr. Sheppard, was convicted of the misdemeanor offense of Failure to Identify in Case No. 2005-4535-7391.
5. On or about 5/27/2008, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard, was convicted of the misdemeanor offense of Possession of Marijuana < 2 Ounces in Case No. 20013-442001.
6. On or about 5/27/2008, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard, was convicted of the misdemeanor offense of Deadly Conduct in Case No. 2008-450533.
7. On or about 7/18/2011, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard, was convicted of the misdemeanor offense of Possession of Marijuana < 2 Ounces in Case No. 2009-4572117.
8. On or about 7/18/2011, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard, was convicted of the misdemeanor offense of Failure to Identify in Case No. 2010-460439.
9. On or about 11/13/2014, in the County Court at Law No. 1 for Lubbock County, Texas, Mr. Sheppard, was convicted of the misdemeanor offense of Possession of Marijuana < 2 Ounces in Case No. 2014-479951.
10. Based on Mr. Sheppard's criminal history, he is not currently fit to be a license holder.
11. On January 26, 2018, staff (Staff) of the Department notified Mr. Sheppard that it was proposing to deny his Application.
12. Mr. Sheppard timely requested a hearing.
13. On May 1, 2018, Staff mailed a notice of hearing to Mr. Sheppard by certified mail and first class mail.
14. The notice of hearing stated the date, time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain, statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.

SOAH DOCKET NO. 608-18-3358.ENF  
MVD CAUSE NO. 18-0183795

PROPOSAL FOR DECISION

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15. The hearing was held June 27, 2018, before Administrative Law Judge Laura M. Valdez in Austin, Texas. Staff was represented by Patrick Coats, Enforcement Division attorney. Mr. Sheppard appeared and represented himself. The record closed and the hearing concluded that day.

#### IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over independent motor vehicle dealers pursuant to Texas Occupations Code ch. 2301 and Texas Transportation Code ch. 503.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under Texas Government Code ch. 2003.
3. Mr. Sheppard received proper and timely notice of hearing. Tex. Gov't Code §§ 2001.051-.052.
4. A GDN constitutes an independent motor vehicle dealer's license, and a person may not legally engage in the business of a dealer without a GDN. Tex. Occ. Code §§ 2301.002(17), 2301.251(a); Tex. Transp. Code § 503.21.
5. Mr. Sheppard's crimes directly relate to the duties and responsibilities of a dealer, which constitutes grounds to deny his Application. Tex. Occ. Code § 53.021(a); 43 Tex. Admin. Code § 215.88.
6. The Department may deny an application for a GDN if the Department determines that the person is unfit to perform the duties and discharge the responsibilities of a license holder. Texas Transp. Code § 503.038; 43 Tex. Admin. Code §§ 215.141(a).
7. The Application should be denied because of Mr. Sheppard's criminal history.

**SIGNED August 22, 2018.**

  
\_\_\_\_\_  
LAURA M. VALDEZ  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



ENFORCEMENT DIVISION  
(512) 465-4204  
(512) 465-5650 FAX

March 2, 2018

Marshone Sheppard  
d/b/a MFJ AUTO SHOP  
8901 Highway 87, Unit 131  
Lubbock, Texas 79423  
**VIA US MAIL AND CERT. MAIL**

RE: IN THE MATTER OF THE APPLICATION FOR LICENSE OF  
Marshone Sheppard dba MFJ AUTO SHOP  
WHEN RESPONDING, PLEASE REFER TO MVD CASE No. 18-0183795.ENF

Dear Applicant:

In accordance with the notice provisions of Texas Administrative Procedure Act (TEX. GOV'T CODE §§ 2001.001 et seq.) and 43 TEX. ADMIN. CODE § 215.500, enclosed is a Notice of Department Decision ("Decision") prepared by the Texas Department of Motor Vehicles ("Department") recommending that the license application you filed with the Department be denied for the reasons stated therein.

If there are circumstances surrounding the allegations that you believe should mitigate any sanction imposed by the Decision you can discuss an informal settlement with the undersigned enforcement attorney. To discuss an informal settlement of the case you **must first request an administrative hearing** as explained in the Decision within twenty-six (26) days from the date of the Decision. **For your convenience, you may use the request for hearing form included in this packet.**

The undersigned attorney can be contacted at (512) 465-4204 or by writing using the address above.

If this case is set for hearing before an Administrative Law Judge ("ALJ") at the State Office of Administrative Hearings ("SOAH") you are entitled to receive a Notice of Hearing. Hearings in these matters are conducted under the rules of the Department and SOAH.

**ATENCIÓN:** Este es un documento legal importante que puede influir negativamente en su licencia para operar como concesionario de vehículos de motor en Texas. Se le ha acusado de violar la ley. Si dentro de los 26 días de esta carta no recibimos de usted una solicitud por escrito para una audiencia en este asunto una orden final será emitida por el DMV que puede imponer sanciones contra usted, incluyendo una multa civil y/o revocación de su distribuidor de vehículos de motor licencia. Instamos enérgicamente a ponerse en contacto inmediatamente con un abogado privado o el abogado del DMV que suscribe con respecto a este documento legal. Si lo desea, alguien con el DMV puede discutir este documento con usted en el idioma Español.

If you do not request an administrative hearing within twenty-six (26) days from the date of the Decision, the terms and any sanctions contained therein become final.

Sincerely,  
*Brian Coats*

Brian Coats,  
Attorney, Enforcement Division  
(512) 465-4009

**MOTOR VEHICLE DIVISION  
TEXAS DEPARTMENT OF MOTOR VEHICLES**

**IN THE MATTER OF THE LICENSE OF  
Marshone Sheppard dba MFJ AUTO SHOP**

**MVD Case NO. 18-0183795.ENF**

**NOTICE OF DEPARTMENT DECISION**

The Texas Department of Motor Vehicles, (hereinafter, "Department" or "Petitioner"), is the state agency with authority to administer and enforce Texas Occupations Code Chapter 2301; Texas Transportation Code Chapters 501, 502 and 503; and 43 Texas Administrative Code Chapter 215. An investigation was conducted in the review of your application for a license with the Department. As a result of that investigation, the Department determined that you, Marshone Sheppard dba MFJ AUTO SHOP, (hereinafter "Respondent"), an applicant for a license, failed to meet the requirements for a motor vehicle dealer license per Texas Occupations Code Chapter 2301; and/or Texas Transportation Code Chapters 501, 502 and 503 and/or 43 Texas Administrative Code Chapter 215. The Department alleges the following:

1. On or about 11/30/2017, Respondent submitted an application to obtain a motor vehicle dealer license.
2. Marshone Sheppard has the following criminal history:
3. On or about 6/22/2005, in the County Court at Law No. 2 for Lubbock County, Texas, Marshone Sheppard, was convicted of the misdemeanor offense of Possession of Marijuana in Case No. 2005-492-739.
4. On or about 1/06/2006, in the County Court at Law No. 2 for Lubbock County, Texas, Marshone Sheppard, was convicted of the misdemeanor offense of Failure to Identify in Case No. 2005-495-739.
5. On or about 5/27/2008, in the County Court at Law No. 1 for Lubbock County, Texas, Marshone Sheppard, was convicted of the misdemeanor offense of Possession of Marijuana < 2 Ounces in Case No. 2006-442001.
6. On or about 5/27/2008, in the County Court at Law No. 1 for Lubbock County, Texas, Marshone Sheppard, was convicted of the misdemeanor offense of Deadly Conduct in Case No. 2008-450533.
7. On or about 7/18/2011, in the County Court at Law No. 1 for Lubbock County, Texas, Marshone Sheppard, was convicted of the misdemeanor offense of Possession of Marijuana < 2 Ounces in Case No. 2009-457237.
8. On or about 7/18/2011, in the County Court at Law No. 1 for Lubbock County, Texas, Marshone Sheppard, was convicted of the misdemeanor offense of Failure to Identify in Case No. 2010-460439.

9. On or about 11/13/2014, in the County Court at Law No. 1 for Lubbock County, Texas, Marshone Sheppard, was convicted of the misdemeanor offense of Possession of Marijuana < 2 Ounces in Case No. 2014-479951.
10. The convictions for the criminal offenses stated above are offenses that directly relate to the duties and responsibilities of the licensed occupation per TEX. OCC. CODE §§ 53.021 and 53.022 and TEX. ADMIN. CODE § 215.88(j). As such, the application for a motor vehicle dealer license is subject to denial per TEX. ADMIN. CODE § 215.88(i), TEX. ADMIN. CODE § 215.89(b) and TEX. OCC. CODE § 53.021.

The Department is authorized to deny an application for a license, revoke or suspend a license, under Texas Occupations Code § 2301.651; Texas Transportation Code § 503.038; and 43 Texas Administrative Code § 215.141(a). Further, Texas Transportation Code § 503.095 allows for a civil penalty of up to \$1,000.00 for each violation of, or per day for a continuing violation, of Chapter 503, or a rule or order adopted under the chapter. Texas Occupations Code § 2301.801 allows for a civil penalty of up to \$10,000.00 for each violation of, or per day for a continuing violation, of Chapter 2301, or a rule or order adopted under the chapter.

Based on the aforementioned investigation and allegations, the Department recommends to deny your application for a motor vehicle dealer license (Dealer General Distinguishing) with the Department.

**If you wish to contest the allegations, recommended civil penalty, or other sanction you must first request an administrative hearing in writing. You may send your own request for hearing or use the Request For Administrative Hearing form included in this packet. Send your request for hearing to the following address:**

Brian Coats  
Attorney, Enforcement Division  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731  
(512) 465-4009  
(512) 465-5650 Fax

**You must include your name and the MVD Case Number appearing in the heading of this Decision in your hearing request. The Department must receive your written hearing request not later than the 26th day after the date of this Decision.**

If you timely submitted a written request for a hearing, the Department may enter into an informal settlement agreement with you regarding these violations and enforcement action at any time before a final decision is rendered in this case.

If a timely written hearing request is received and no settlement is reached, an administrative hearing will be scheduled before the State Office of Administrative Hearings (SOAH). You will be notified of the hearing date and time. Hearings will be held at SOAH's offices located at 300 W. 15th St., Austin, Texas 78701. Increased penalties or other sanctions may be recommended by the Department at the hearing.

If you do not request a hearing by the 26th day from the date of this notice, the Department Decision becomes final. After that date the Department may issue a Final Order implementing the Decision.

Should this case be set for hearing, Petitioner prays that it be found that Respondent has violated the statutes and implementing rules alleged above; and, that, as appropriate, Respondent's application for a license be denied or that Respondent be placed on probation, or reprimanded; that civil penalties be imposed; and that the conduct alleged above be ceased and not resumed.

If you have any questions regarding this Decision, please contact me at (512) 465-4009.

**DATE OF DECISION: March 2, 2018**

Respectfully Submitted,

*Brian Coats*

Brian Coats

Attorney – Enforcement Division

Bar Card 24072999

4000 Jackson Avenue

Austin, Texas 78731

(512) 465-4009

(512) 465-5650 Fax

## **REQUEST FOR ADMINISTRATIVE HEARING**

If you intend to contest the allegations listed in the Notice of Department of Decision in this matter or negotiate a settlement with the assigned enforcement division attorney you must first request an administrative hearing. You may use this form to request a hearing.

I request a hearing in Texas Department of Motor Vehicles Case No. \_\_\_\_\_ ENF. (The Case Number is found in the heading of the Decision; i.e. MVD Case No. 17-000000.ENF).

**NOTE: Failure to include the Case Number of this matter on this request may result in no hearing being scheduled and loss of the opportunity to settle this matter before a Final Order is issued.**

Name of person requesting hearing: \_\_\_\_\_

(Please Print)

Phone Number of person requesting hearing: \_\_\_\_\_

Email Address of person requesting hearing: \_\_\_\_\_

Would you like to discuss a resolution to this case without a hearing: \_\_\_ Yes \_\_\_ No

***This request for hearing must be received at the below address no later than 26 days from the date of the Notice of Department Decision in this matter.***

TEXAS DEPARTMENT OF MOTOR VEHICLES  
ENFORCEMENT Division  
4000 Jackson Avenue – Austin, Texas 78731

This request may also be faxed to phone number **(512) 465-5650**

PBC

## Information about the Notice of Department Decision

This document provides information about the Notice of Department Decision (“Decision”) you have just received from the Enforcement Division of the Texas Department of Motor Vehicles (“Department”). If you have questions about the Decision call the enforcement attorney who signed the document at (512) 465-4204 or consult a private attorney. Please note that the enforcement attorney only represents the Department and therefore cannot give you legal advice. When contacting the Department you should refer to the case number at the top of the whenever you contact the Department about this case.

### **The Notice of Department Decision**

The Department filed the Decision, because of allegations that you (the Respondent) may have violated one or more of the laws enforced by the Department. After an investigation by the Department if violations are believed to have occurred, a Notice of Department Decision is prepared including the allegations and recommended sanctions. Sanctions may include a civil penalty (a monetary fine), and in more serious cases, revocation of your license. The civil penalty amount depends on the nature of the violation, facts of the case, any prior violations, any harm to consumers, and any action by you to minimize harm.

### **Settling Your Case**

You may settle this matter informally and avoid a hearing before an Administrative Law Judge (“ALJ”) at the State Office of Administrative Hearings (“SOAH”) by timely filing a request for hearing within 26 days of the date of the Decision and discussing the case with the enforcement attorney. During settlement discussions, you may make the enforcement attorney aware of any mitigating or extenuating circumstances that may justify a lower civil penalty or other adjustment of sanctions recommended in the Decision.

### **Paying the Civil Penalty**

If you settle this matter before a SOAH hearing, the Enforcement attorney will prepare and send you an “Agreed Final Order” containing the terms of the settlement. **You must sign the order and return a complete copy of it to the Department along with a check to pay any civil penalty imposed by the order.** The Department Board Chairman or a delegate will then sign the Agreed Final Order, which ends your case. The Department will send you a copy of the signed order to you or your representative.

### **Notice of Hearing**

If you request a hearing within 26 days of the date of the Decision and you do not settle the case, it will be set for a SOAH hearing. You will be sent a Notice of Hearing stating the time, place and nature of the hearing. **If you plan on appearing at the hearing, you must notify**

**the enforcement attorney. If you appear at the hearing without filing a response to the allegations or notifying the enforcement attorney, the hearing may be reset for another date.**

### **Changing the Hearing Date**

Contact the enforcement attorney if you wish to change the hearing date. If you and the enforcement attorney cannot agree on changing the hearing date, you should call the SOAH docket clerk at (512) 475-3445 about how to file a motion for continuance.

### **The Hearing**

The Texas Rules of Evidence and SOAH's rules of procedure apply to SOAH hearings. The enforcement attorney will present evidence in the form of witness testimony and documents. You (if representing yourself) or your attorney/representative may object to the evidence and question each witness. You may present your case after the enforcement attorney's presentation. You should bring your witnesses with you or arrange with the ALJ before the hearing to have the witnesses testify by telephone. If you need an interpreter, notify the enforcement attorney as soon as possible before the hearing. You need to bring an original and two copies of all documents you intend to present at the hearing.

After reviewing the parties' evidence and arguments, the ALJ will issue a Proposal For Decision ("PFD") addressing whether any violations occurred and what sanctions, if any, should apply.

If you disagree with the PFD, you may file "exceptions" explaining your disagreement. The Department will consider the PFD with the exceptions and any replies to the exceptions. You may also orally address your case before the Department Board at a scheduled meeting. The Department Board may: (1) issue a Final Order approving the PFD, (2) issue a Final Order approving the PFD with modifications, or (3) send the case back to SOAH for a new hearing.

If a Final Order is issued and you disagree with the order, you have 20 days after receiving it to file a Motion for Rehearing. If the Department Board or its delegate does not grant the Motion for Rehearing, the order will be final. If the order assessed a civil penalty or other sanction, you must comply with the order or the Department may initiate contempt action against you.

### **Appealing the Final Order**

You may appeal a Final Order to the Travis County District Court if you have filed a proper Motion for Rehearing within 30 days after a Final Order becomes final and appealable.

### **Failing to Attend the Hearing (Default)**

If you do not settle the case and fail to attend the hearing, the enforcement attorney may request a civil penalty and/or license revocation, and/or other sanction be entered against

you. The sanctions requested may be more severe than if you had settled before the hearing date. The Department will then issue and send you a copy of a Final Order. If you disagree with the order you may file a Motion for Rehearing. The case becomes final if you do not file a motion for rehearing within 20 days after receiving the order, or if the motion is not granted.

### ***Running Your Business While the Case is Pending***

You may continue operating your business and can renew your license while your case remains pending, unless the ALJ orders you to stop operating during the case.

### ***Communications with the ALJ, Director or Department Board Members***

The law prohibits communications about a pending case with the ALJ and the Department, **except communications with the enforcement attorney** or when the other party is included in the communication. For example, you may send a letter to the ALJ about a pending case only if you copy the enforcement attorney on the correspondence.

**MOTOR VEHICLE DIVISION  
TEXAS DEPARTMENT OF MOTOR VEHICLES**

**IN THE MATTER OF MARSHONE  
SHEPPARD D/B/A MFJ AUTO SHOP**

§  
§  
§

**MVD DOCKET NO. 18-0183795.ENF  
SOAH DOCKET NO. 608-18-3358.ENF**

**FINAL ORDER**

CAME ON FOR CONSIDERATION this \_\_\_\_ day of \_\_\_\_\_ 2018, the above-styled and numbered cause.

After proper notice was given, this case was heard by the State Office of Administrative Hearings (SOAH), with the Administrative Law Judge (ALJ) Laura M. Valdez presiding. The hearing convened on June 27, 2018, and the SOAH record closed the same day as the hearing. The ALJ made and filed a Proposal for Decision (PFD) (attached as Exhibit "A") containing Findings of Fact and Conclusions of Law on August 22, 2018. The PFD was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed.

After review and due consideration of the PFD, the Findings of Fact and Conclusions of Law of the ALJ that are contained in the PFD are adopted and incorporated into this Order, as if such were fully set out and separately stated herein.

IT IS THEREFORE ORDERED that Respondent's application for a motor vehicle dealer license (General Distinguishing Number) be denied.

Date: \_\_\_\_\_

\_\_\_\_\_  
Raymond Palacios, Chairman  
Board of Texas Department of Motor Vehicles

ATTESTED:

\_\_\_\_\_  
Daniel Avitia, Director  
Motor Vehicle Division  
Texas Department of Motor Vehicles

Date: October 4, 2018  
Action Requested: APPROVAL

**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Corrie Thompson, Director, Enforcement Division  
**Agenda Item:** 6  
**Subject:** Adoption of Rule under Title 43, Texas Administrative Code, Chapter 215, Motor Vehicle Distribution Amendments, §215.155 (Relating to exemptions from the vehicle inspection requirements under Transportation Code, Chapter 548)

### RECOMMENDATION

Approval to publish the adoption of amendments for publication in the *Texas Register*.

### PURPOSE AND EXECUTIVE SUMMARY

An amendment makes §215.155(b) consistent with Transportation Code, Chapter 548. Another amendment corrects language in the current text of §215.155(b) by adding the word "on."

### FINANCIAL IMPACT

There will be no significant fiscal implications for state or local governments as a result of enforcing or administering the amendments. There are no anticipated economic costs for persons required to comply with the amendments.

### BACKGROUND AND DISCUSSION

An amendment makes §215.155(b) consistent with Chapter 548, which includes exemptions from the vehicle inspection requirements. Section 215.155(b) currently says a buyer's temporary tag may only be displayed on a vehicle that has a valid inspection in accordance with Chapter 548. The amendment authorizes a buyer's temporary tag to be displayed on a vehicle that does not have a valid inspection if the vehicle is exempt from inspection under Chapter 548.

The proposal was published in the *Texas Register* on July 6, 2018. The comment period closed on August 6, 2018. The department received the attached comments from the Texas Independent Automobile Dealers Association (TIADA), the Texas Automobile Dealers Association (TADA), and the Governor's Office. TIADA and TADA are in full support of the department's amendment to §215.155(b) regarding exemptions from the inspection requirements. The Governor's Office pointed out an error in the current text of §215.155(b).

If the board adopts the amendments during its October 4, 2018, open meeting, staff anticipates:

- publication in the October 26, 2018, issue of the *Texas Register*, and
- an effective date of November 4, 2018.



July 19, 2018

Mr. David Duncan  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Ave.  
Austin, TX 78731

Sent via email: rules@txdmv.gov

**Re: Proposed TAC, Chapter 215, §215.155 Amendments published in the Texas Register July 6, 2018**

Dear Mr. Duncan:

The Texas Independent Automobile Dealers Association thanks you for the opportunity to submit the following comment with regard to buyer's temporary tags.

The association commends the agency for ensuring consistency within the various Codes that regulate the automotive industry. TIADA fully supports the proposed amendments.

Please feel free to contact me directly with any questions or concerns you may have.

Sincerely,

Amber Hackett Crosby  
TIADA Director of Dealer Compliance and Education



1108 Lavaca, Suite 800  
Austin, Texas 78701  
Phone: 512-476-2686  
www.tada.org

August 6, 2018

Mr. David D. Duncan  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Sent by email: [rules@txdmv.gov](mailto:rules@txdmv.gov)

Re: Proposed Amendment to 43 TAC § 215.155

Dear Mr. Duncan:

On behalf of the Texas Automobile Dealers Association (TADA), TADA supports the proposed amendment to 43 TAC § 215.155 as discussed in the July 6, 2018, *Texas Register*, 43 *TexReg* 4547 - 4548.

The proposal provides that a buyer's tag may be displayed on a vehicle that is not required to be inspected and is therefore exempt from the inspection requirements in Chapter 548, Transportation Code.

If you have any question, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karen Phillips', is written over a light blue circular stamp.

Karen Phillips  
General Counsel/EVP

**From:** Charlie Leal [mailto:charlie.leal@gov.texas.gov]  
**Sent:** Friday, July 06, 2018 1:28 PM  
**To:** Miller, Matthew <Matthew.Miller@txdmv.gov>  
**Cc:** Love, Caroline <Caroline.Love@txdmv.gov>  
**Subject:** FYI Proposed Rules

Hey Matt,

In reviewing the proposed rules I noticed a typo in TAC rule 215.155 that you all may want to correct:

*(b) A buyer's temporary tag may be displayed only a vehicle that has a valid inspection in accordance with Transportation Code, Chapter 548, unless the vehicle is exempt from inspection under Chapter 548.*

The language appears as “only on a vehicle” in the previous subparagraph, which is what it was probably meant to be originally. Just a suggestion. Thanks!

---

Charlie Leal  
Policy Advisor  
Office of Texas Governor Greg Abbott  
(512) 463-1778

Texas Department of Motor Vehicles  
Chapter 215, Motor Vehicle Distribution

1 Adoption Preamble

2 The Texas Department of Motor Vehicles (department) adopts  
3 amendments to Chapter 215, Motor Vehicle Distribution,  
4 Subchapter E, General Distinguishing Numbers, §215.155, Buyer's  
5 Temporary Tags, with changes to the proposed text as published  
6 in the July 6, 2018, issue of the *Texas Register* (43 TexReg  
7 4547). The rule will be republished.

8

9 EXPLANATION OF AMENDMENTS

10 An amendment makes §215.155(b) consistent with Transportation  
11 Code, Chapter 548, which includes exemptions from the vehicle  
12 inspection requirements. The amendment authorizes a buyer's  
13 temporary tag to be displayed on a vehicle that does not have a  
14 valid inspection if the vehicle is exempt from inspection under  
15 Chapter 548. Another amendment corrects language in the existing  
16 text of §215.155(b) by adding the word "on."

17

18 COMMENTS

19 The department received comments from the Texas Independent  
20 Automobile Dealers Association (TIADA), the Texas Automobile  
21 Dealers Association (TADA), and the Governor's Office. TIADA and  
22 TADA are in full support of the department's amendment to  
23 §215.155(b) regarding exemptions from the inspection

Texas Department of Motor Vehicles  
Chapter 215, Motor Vehicle Distribution

1 requirements. The Governor's Office pointed out an error in the  
2 existing text of §215.155(b).

3

4 STATUTORY AUTHORITY

5 The amendments are adopted under Transportation Code, §1002.001,  
6 which provides the board of the Texas Department of Motor  
7 Vehicles (board) with the authority to adopt rules that are  
8 necessary and appropriate to implement the powers and the duties  
9 of the department; and more specifically, Transportation Code,  
10 §503.002, which authorizes the board to adopt rules for the  
11 administration of Transportation Code, Chapter 503.

12

13 CROSS REFERENCE TO STATUTE

14 Transportation Code, Chapter 548 and §503.063.

Texas Department of Motor Vehicles  
Chapter 215, Motor Vehicle Distribution

1 SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

2 §215.155. Buyer's Temporary Tags.

3 (a) A buyer's temporary tag may be displayed only on a  
4 vehicle that can be legally operated on the public streets and  
5 highways and for which a sale has been consummated.

6 (b) A buyer's temporary tag may be displayed only on a  
7 vehicle that has a valid inspection in accordance with  
8 Transportation Code, Chapter 548, unless the vehicle is exempt  
9 from inspection under Chapter 548.

10 (c) For a wholesale transaction, the purchasing dealer  
11 places on the motor vehicle its own:

- 12 (1) dealer's temporary tag; or  
13 (2) metal dealer's license plate.

14 (d) A buyer's temporary tag is valid until the earlier of:

- 15 (1) the date on which the vehicle is registered; or  
16 (2) the 60th day after the date of purchase.

17 (e) The dealer must ensure that the following information  
18 is placed on a buyer's temporary tag that the dealer issues:

- 19 (1) the vehicle-specific number obtained from the  
20 temporary tag database;  
21 (2) the year and make of the vehicle;  
22 (3) the VIN of the vehicle;  
23 (4) the month, day, and year of the expiration of the

Texas Department of Motor Vehicles  
Chapter 215, Motor Vehicle Distribution

1 buyer's temporary tag; and

2 (5) the name of the dealer.

3 (f) A dealer shall charge a buyer a fee of \$5 for the  
4 buyer's temporary tag or Internet-down buyer's temporary tag  
5 issued, unless the vehicle is exempt from payment of  
6 registration fees under Transportation Code, §502.453 or  
7 §502.456 or an all-terrain vehicle or recreational off-highway  
8 vehicle under Transportation Code, §502.140 or Transportation  
9 Code, Chapter 663. The fee shall be remitted to the county in  
10 conjunction with the title transfer for deposit to the credit of  
11 the Texas Department of Motor Vehicles fund, unless the vehicle  
12 is sold to an out-of-state resident, in which case:

13 (1) the dealer shall remit the entire fee to the  
14 department for deposit to the credit of the Texas Department of  
15 Motor Vehicles fund if payment is made through the department's  
16 electronic title system; or

17 (2) the dealer shall remit the fee to the county for  
18 deposit to the credit of the Texas Department of Motor Vehicles  
19 fund.

Date: October 4, 2018  
Action Requested: APPROVAL

**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Aline Aucoin, Associate General Counsel; Carrie Thompson, Director, Enforcement Division  
**Agenda Item:** 7  
**Subject:** Proposal of Rules under Title 43, Texas Administrative Code, Chapter 219, Oversize and Overweight Vehicles and Loads  
Rule Review, Government Code, §2001.039  
Amendments, §219.101 (Relating to notice of the designated time and location for inspector to inspect records)

**RECOMMENDATION**

Approval to publish the proposed notice of intent to review Chapter 219 and the proposed amendments in the *Texas Register* for public comment.

**PURPOSE AND EXECUTIVE SUMMARY**

The department conducted a review of Chapter 219 to comply with Government Code, §2001.039.

The proposed amendments to §219.101 give the department the flexibility to send the notice regarding an inspection or investigation of records by regular mail or email. Section 219.101 currently authorizes the department to send the notice by certified mail or facsimile.

**FINANCIAL IMPACT**

There will be no fiscal implications related to the proposed amendments.

**BACKGROUND AND DISCUSSION**

Government Code, §2001.039 requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal the current rules. The department has determined that the reasons for initially adopting the rules in Chapter 219 continue to exist. The department proposes to readopt §219.101 with amendments and to readopt the remainder of the sections in Chapter 219 without amendments.

### Intention to Review

The Texas Department of Motor Vehicles (department) files this notice of intent to review 43 TAC Chapter 219, Oversize and Overweight Vehicles and Loads. This review is conducted pursuant to Government Code, §2001.039, which requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal the current rules. The department has determined that the reasons for initially adopting the rules continue to exist.

The department proposes to readopt §219.101 with amendments as published in the Proposed Rules section of this issue of the *Texas Register*. The department proposes to readopt the remainder of the sections in Chapter 219 without amendments.

Comments regarding this rule review may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to [rules@txdmv.gov](mailto:rules@txdmv.gov). The deadline for receipt of comments is 5:00 p.m. on \_\_\_\_\_.

Texas Department of Motor Vehicles  
Chapter 219, Oversize and Overweight Vehicles and Loads

1 Proposed Preamble

2 The Texas Department of Motor Vehicles (department) proposes  
3 amendments to Chapter 219, Oversize and Overweight Vehicles and  
4 Loads, Subchapter G, Records and Inspections, §219.101,  
5 Investigations and Inspections of Records.

6

7 EXPLANATION OF PROPOSED AMENDMENTS

8 The department is conducting a rule review in compliance with  
9 Government Code, §2001.039. Notice of the department's intent  
10 to review Chapter 219 is published in the Review of Agency Rules  
11 section of this issue of the *Texas Register*.

12

13 As a result of the review, the department has determined that  
14 §219.101 should be amended. Proposed amendments make §219.101(c)  
15 consistent with the language in 43 TAC 218.31(d) by removing the  
16 word "certified" and giving the department the flexibility to  
17 send the notice regarding an inspection or investigation of  
18 records by regular mail or email. Section 219.101 currently  
19 authorizes the department to send the notice by certified mail  
20 or facsimile.

21

22 FISCAL NOTE

23 Linda M. Flores, Chief Financial Officer, has determined that

Texas Department of Motor Vehicles  
Chapter 219, Oversize and Overweight Vehicles and Loads

1 for each of the first five years the amendments as proposed are  
2 in effect, there will be no fiscal implications for state or  
3 local governments as a result of enforcing or administering the  
4 proposed amendments.

5  
6 Corrie Thompson, Director of the Enforcement Division, has  
7 determined that there will be no impact on local economies or  
8 overall employment as a result of enforcing or administering the  
9 proposed amendments.

10

11 PUBLIC BENEFIT AND COST

12 Ms. Thompson has also determined that for each year of the first  
13 five years the amendments are in effect, the public benefit  
14 anticipated as a result of enforcing or administering the  
15 amendments will be greater flexibility regarding the method by  
16 which the department can send notice regarding an inspection or  
17 investigation of records. There are no anticipated economic  
18 costs for persons required to comply with the proposed  
19 amendments. There will be no adverse economic effect on small  
20 businesses, micro-businesses, or rural communities.

21

22 TAKINGS IMPACT ASSESSMENT

23 The department has determined that this proposal affects no

Texas Department of Motor Vehicles  
Chapter 219, Oversize and Overweight Vehicles and Loads

1 private real property interests and that this proposal does not  
2 restrict or limit an owner's right to property that would  
3 otherwise exist in the absence of government action, and so does  
4 not constitute a taking or require a takings impact assessment  
5 under Government Code, §2007.043.

6

7 GOVERNMENT GROWTH IMPACT STATEMENT

8 The department has determined that during the first five years  
9 the proposed amendments are in effect, no government program  
10 would be created or eliminated. Implementation of the proposed  
11 amendments would not require the creation of new employee  
12 positions or elimination of existing employee positions.  
13 Implementation would not require an increase or decrease in  
14 future legislative appropriations to the department or an  
15 increase or decrease of fees paid to the department.

16 Additionally, the proposed amendments do not create a new  
17 regulation, or expand, limit, or repeal an existing regulation.  
18 The proposed amendments do not affect the number of individuals  
19 subject to the rule's applicability and will not affect this  
20 state's economy.

21

22 SUBMITTAL OF COMMENTS

23 Written comments on the proposed amendments may be submitted to

Texas Department of Motor Vehicles  
Chapter 219, Oversize and Overweight Vehicles and Loads

1 David D. Duncan, General Counsel, Texas Department of Motor  
2 Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email  
3 to *rules@txdmv.gov*. The deadline for receipt of comments is  
4 5:00 p.m. on \_\_\_\_\_.

5

6 STATUTORY AUTHORITY

7 The amendments are proposed under Transportation Code,  
8 §1002.001, which provides the board of the Texas Department of  
9 Motor Vehicles (board) with the authority to adopt rules that  
10 are necessary and appropriate to implement the powers and the  
11 duties of the department; and more specifically, Transportation  
12 Code, §623.002, which authorizes the board to adopt rules that  
13 are necessary to implement and enforce Transportation Code,  
14 Chapter 623.

15

16 CROSS REFERENCE TO STATUTE

17 Transportation Code, Chapter 623, Subchapter N.

Texas Department of Motor Vehicles  
Chapter 219, Oversize and Overweight Vehicles and Loads

1 SUBCHAPTER G. RECORDS AND INSPECTIONS

2 §219.101. Investigations and Inspections of Records.

3 (a) Inspections.

4 (1) A person shall give an inspector access to the  
5 person's premises to conduct inspections or investigations of an  
6 alleged violation of this chapter or Transportation Code,  
7 Chapters 621, 622, or 623. The person shall provide adequate  
8 workspace with reasonable working conditions and shall allow the  
9 inspector to copy and verify records.

10 (2) The inspector will conduct inspections and  
11 investigations during normal business hours unless mutual  
12 arrangements have been made otherwise.

13 (3) The inspector will present to the person the  
14 inspector's credentials and a written statement from the  
15 department indicating the inspector's authority to conduct the  
16 investigation.

17 (b) Access.

18 (1) Except as provided by paragraph (2) of this  
19 subsection, a person shall provide access to requested records  
20 at:

21 (A) the person's principal place of business; or

22 (B) a location in this state agreed to by the  
23 department and the person.

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Chapter 219, Oversize and Overweight Vehicles and Loads

1           (2) If the person's principal place of business is  
2 located outside of this state, the person may choose to make the  
3 records available at an out-of-state location agreed to by the  
4 department and the person but only if the person agrees to  
5 reimburse the department for necessary travel expenses and for a  
6 per diem as set by legislative appropriation for each day that  
7 an inspection or investigation related to the records or  
8 information is conducted.

9           (3) If the requested records are maintained at the  
10 person's principal place of business in this state, the person  
11 shall make those records available to the inspector immediately  
12 after the department requests the records. If the records are  
13 maintained at a regional office or driver work-reporting  
14 location or if the person's principal place of business is  
15 located outside of this state, the person shall make the records  
16 available at the person's principal place of business or the  
17 agreed location at a time agreed to by the department and the  
18 person within 48 hours after the time that the department makes  
19 the request. Saturdays, Sundays, and federal and state holidays  
20 are excluded from the computation of the 48-hour period.

21           (c) If a time or location cannot be agreed upon under  
22 subsection (b) of this section, the department shall designate  
23 the time or location by [~~certified~~] mail, email, or facsimile.

Date: October 4, 2018  
Action Requested APPROVAL

---

**To:** Board of the Texas Department of Motor Vehicles (TxDMV)  
**From:** Jeremiah Kuntz, Director, Vehicle Titles and Registration Division  
**Agenda Item:** 8  
**Subject:** Proposal of Rule under Title 43, Texas Administrative Code, Chapter 217, Vehicle Titles and Registration Amendments, §217.27  
(Relating to personalized license plates)

---

**RECOMMENDATION**

Approval to publish the proposed amendments in the *Texas Register* for public comment.

**PURPOSE AND EXECUTIVE SUMMARY**

The purpose of the proposed amendments is to add a provision to allow the department to issue a license plate pattern which references privately and publicly funded institutions of higher learning, including military academies.

**FINANCIAL IMPACT**

There will be no significant fiscal implications related to the proposed amendments.

**BACKGROUND AND DISCUSSION**

Currently, the department may approve a plate pattern that does not violate §217.27, Vehicle Registration Insignia. The proposed amendments add §217.27(d)(4) to clarify when the department may approve and issue a license plate pattern that references publicly and privately funded institutions of higher learning, including military academies. The amendments further clarify that the funds may be from state or federal sources, or both.

Texas Department of Motor Vehicles  
Chapter 217, Vehicle Titles and Registration

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1 Proposed Preamble

2 The Texas Department of Motor Vehicles (department) proposes  
3 amendments to Chapter 217, Vehicle Titles and Registration,  
4 Subchapter B, Motor Vehicle Registration, §217.27, Vehicle  
5 Registration Insignia.

6

7 EXPLANATION OF PROPOSED AMENDMENTS

8 With the proposed amendments to add §217.27(d)(4), the  
9 department is clarifying when it may approve and issue a license  
10 plate pattern that references certain publicly and privately  
11 funded entities. Namely, the department may approve a plate  
12 pattern which does not violate §217.27(d) and references  
13 publicly and privately funded institutions of higher learning,  
14 including military academies.

15

16 FISCAL NOTE

17 Linda M. Flores, Chief Financial Officer, has determined that  
18 for each of the first five years the amendments as proposed are  
19 in effect, there will be no fiscal implications for state or  
20 local governments as a result of enforcing or administering the  
21 proposed amendments.

22

23 Jeremiah Kuntz, Director of the Vehicle Titles and Registration

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Chapter 217, Vehicle Titles and Registration

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1 Division, has determined that there will be no significant  
2 impact on local economies or overall employment as a result of  
3 enforcing or administering the proposed amendments.

4

5 PUBLIC BENEFIT AND COST

6 Mr. Kuntz has also determined that for each year of the first  
7 five years the amendments are in effect, the public benefit  
8 anticipated as a result of enforcing or administering the  
9 amendment will be to clarify when the department may issue a  
10 license plate pattern. There are no anticipated economic costs  
11 for persons required to comply with the proposed amendments.  
12 There will be no adverse economic effect on small businesses,  
13 micro-businesses, or rural communities.

14

15 TAKINGS IMPACT ASSESSMENT

16 The department has determined that this proposal affects no  
17 private real property interests and that this proposal does not  
18 restrict or limit an owner's right to property that would  
19 otherwise exist in the absence of government action, and so does  
20 not constitute a taking or require a takings impact assessment  
21 under Government Code, §2007.043.

22

23 GOVERNMENT GROWTH IMPACT STATEMENT

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Chapter 217, Vehicle Titles and Registration

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1 The department has determined that during the first five years  
2 the proposed amendments are in effect, no government program  
3 would be created or eliminated. Implementation of the proposed  
4 amendments would not require the creation of new employee  
5 positions or elimination of existing employee positions.  
6 Implementation would not require an increase or decrease in  
7 future legislative appropriations to the department or an  
8 increase or decrease of fees paid to the department.  
9 Additionally, the proposed amendments do not create a new  
10 regulation, or expand, limit, or repeal an existing regulation.  
11 The proposed amendments do not affect the number of individuals  
12 subject to the rule's applicability and will not affect this  
13 state's economy.

14

15 SUBMITTAL OF COMMENTS

16 Written comments on the proposed amendments may be submitted to  
17 David D. Duncan, General Counsel, Texas Department of Motor  
18 Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email  
19 to *rules@txdmv.gov*. The deadline for receipt of comments is  
20 5:00 p.m. on \_\_\_\_\_.

21

22 STATUTORY AUTHORITY

23 The amendments are proposed under Transportation Code,

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1 §1002.001, which provides the board of the Texas Department of  
2 Motor Vehicles with the authority to adopt rules that are  
3 necessary and appropriate to implement the powers and the duties  
4 of the department; and more specifically, §504.0011, which  
5 provides that the board may adopt rules to implement and  
6 administer Chapter 504, License Plates.

7

8 CROSS REFERENCE TO STATUTE

9 Transportation Code, Chapter 504.

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Chapter 217, Vehicle Titles and Registration

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1 SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

2 §217.27. Vehicle Registration Insignia.

3 (a) On receipt of a complete initial application for  
4 registration with the accompanying documents and fees, the  
5 department will issue vehicle registration insignia to be  
6 displayed on the vehicle for which the registration was issued  
7 for the current registration period.

8 (1) If the vehicle has a windshield, the symbol, tab, or  
9 other device prescribed by and issued by the department shall be  
10 attached to the inside lower left corner of the vehicle's front  
11 windshield in a manner that will not obstruct the vision of the  
12 driver.

13 (2) If the vehicle has no windshield, the symbol, tab, or  
14 other device prescribed by and issued by the department shall be  
15 attached to the rear license plate, except that registration  
16 receipts, retained inside the vehicle, may provide the record of  
17 registration for vehicles with permanent trailer plates.

18 (3) If the vehicle is registered as a former military  
19 vehicle as prescribed by Transportation Code, §504.502, the  
20 vehicle's registration number shall be displayed instead of  
21 displaying a symbol, tab, or license plate.

22 (A) Former military vehicle registration numbers shall  
23 be displayed on a prominent location on the vehicle in numbers

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1 and letters of at least two inches in height.

2 (B) To the extent possible, the location and design of  
3 the former military vehicle registration number must conform to  
4 the vehicle's original military registration number.

5 (b) Unless otherwise prescribed by law, each vehicle  
6 registered under this subchapter:

7 (1) must display two license plates, one at the exterior  
8 front and one at the exterior rear of the vehicle that are  
9 securely fastened at the exterior front and rear of the vehicle  
10 in a horizontal position of not less than 12 inches from the  
11 ground, measuring from the bottom, except that a vehicle  
12 described by Transportation Code, §621.2061 may place the rear  
13 plate so that it is clearly visible; or

14 (2) must display one plate that is securely fastened at  
15 or as close as practical to the exterior rear of the vehicle in  
16 a position not less than 12 inches from the ground, measuring  
17 from the bottom if the vehicle is a road tractor, motorcycle,  
18 trailer or semitrailer.

19 (c) Each vehicle registered under this subchapter must  
20 display license plates:

21 (1) assigned by the department for the period; or

22 (2) validated by a registration insignia issued by the  
23 department for a registration period consisting of 12

Texas Department of Motor Vehicles  
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1 consecutive months at the time of application for registration.  
2 Vehicles may be registered for 24 consecutive months only in  
3 accordance with Transportation Code, §548.102. However, the  
4 vehicle must be registered for 24 consecutive months and all  
5 fees must be paid for each year of registration, regardless of  
6 the number of months remaining on the inspection at the time of  
7 registration, if both of the following occur:

8 (A) the vehicle receives a two-year inspection under  
9 §548.102; and

10 (B) the application for registration is made in the  
11 name of the purchaser under Transportation Code, §501.0234.

12 (d) The department may cancel any personalized alpha-  
13 numeric pattern that was issued if the department subsequently  
14 determines or discovers that the personalized license plate was  
15 not in compliance with these guidelines when issued, or if due  
16 to changing language usage, meaning or interpretation, the  
17 personalized license plate has become non-compliant with these  
18 guidelines. When reviewing a personalized alpha-numeric pattern,  
19 the department need not consider the applicant's subjective  
20 intent or declared meaning. The department will not issue any  
21 license plate containing an alpha-numeric pattern that meets one  
22 or more of the following criteria.

23 (1) The alpha-numeric pattern conflicts with the

Texas Department of Motor Vehicles  
Chapter 217, Vehicle Titles and Registration

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1 department's current or proposed regular license plate numbering  
2 system.

3 (2) The director of the department's Vehicle Titles and  
4 Registration Division or the director's designee finds that the  
5 personalized alpha-numeric pattern, including plate patterns  
6 that feature foreign or slang words or phrases, use phonetic,  
7 numeric or reverse spelling, acronyms, patterns viewed in mirror  
8 image, or use a code which only a small segment of the community  
9 may be able to readily decipher, that may be considered  
10 objectionable or misleading, including that the pattern may be  
11 viewed as, directly or indirectly:

12 (A) indecent (defined as including a reference or  
13 connotation to a sexual act, sexual body parts, excrement, or  
14 bodily fluids or functions. Additionally, "69" formats are  
15 prohibited unless used in combination with the vehicle make, for  
16 example, "69 CHEV".);

17 (B) a vulgarity (defined as profane, swear, or curse  
18 words);

19 (C) derogatory (defined as an expression that is  
20 demeaning to, belittles, or disparages any person, group, race,  
21 ethnicity, nationality, gender, sexual orientation, or refers to  
22 an organization that advocates such expressions);

23 (D) a reference to race, ethnicity, gender or sexual

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1 orientation whether the reference is derogatory or not;

2 (E) a reference to gangs, illegal activities, violence,  
3 implied threats of harm, or expressions that describe,  
4 advertise, advocate, promote, encourage, glorify, or condone  
5 violence, crime or unlawful conduct;

6 (F) a reference to illegal drugs, controlled  
7 substances, the physiological state produced by such substances,  
8 intoxicated states, or references that may express, describe,  
9 advertise, advocate, promote, encourage, glorify such items or  
10 states;

11 (G) a representation of, or reference to, law  
12 enforcement, military branches, or other governmental entities  
13 and their titles, including any reference to public office or  
14 position, military or law enforcement rank or status, or any  
15 other official government position or status; or

16 (H) deceptively similar to a military, restricted  
17 distribution, or other specialty plate.

18 (3) The alpha-numeric pattern is currently issued to  
19 another owner.

20 (4) Notwithstanding the limitations on issuance of plate  
21 patterns in this subsection, the department may issue patterns  
22 that refer to publicly and privately funded institutions of  
23 higher education, including military academies, whether funded

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1 by state or federal sources, or both.

2 (e) A decision to cancel or not issue a personalized alpha-  
3 numeric pattern under subsection (d) of this section may be  
4 appealed to the executive director of the department or the  
5 executive director's designee within 20 days of notification of  
6 the cancellation or non-issuance. All appeals must be in writing  
7 and the requesting party may include any written arguments, but  
8 shall not be entitled to a contested case hearing. The executive  
9 director or the executive director's designee will consider the  
10 requesting party's arguments and issue a decision no later than  
11 30 days after the submission of the appeal, unless additional  
12 information is sought from the requestor, in which case the time  
13 for decision is tolled until the additional information is  
14 provided. The decision of the executive director or the  
15 executive director's designee is final and may not be appealed.  
16 An appeal is denied by operation of law 31 days from the  
17 submission of the appeal, or if the requestor does not provide  
18 additional requested information within ten days of the request.

19 (f) The provisions of subsection (a) of this section do not  
20 apply to vehicles registered with annual license plates issued  
21 by the department.

22 (g) A person whose initial application has been denied may  
23 either receive a refund or select a new alpha-numeric pattern.

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1 If an existing personalized alpha-numeric pattern has been  
2 cancelled, the person may choose a new personalized alpha-  
3 numeric pattern which will be valid for the remainder of the  
4 term or will forfeit the remaining term purchased.

Date: October 4, 2018  
Action Requested: APPROVAL

**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Jeremiah Kuntz, Director, Vehicle Titles and Registration  
**Agenda Item:** 9  
**Subject:** Proposal of Rule under Title 43, Texas Administrative Code, Chapter 217, Vehicle Titles and Registration Amendments, §217.84 (Relating to proof of paid claim and salvage language cleanup)

### RECOMMENDATION

Approval to publish the proposed amendments in the *Texas Register* for public comment.

### PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed amendments is to:

- 1). delete specific requirements for an application statement whether a motor vehicle, for which a nonrepairable or salvage title is being sought, is a nonrepairable or salvage motor vehicle; and
- 2). lessen the burden on insurance companies making application under §501.0925.

### FINANCIAL IMPACT

There will be no fiscal implications related to the proposed amendments.

### BACKGROUND AND DISCUSSION

The proposed amendments delete requirements for applications for nonrepairable or salvage vehicle titles to make the rule consistent with Transportation Code, §501.097.

The proposed amendments delete the requirement to state that:

- a vehicle was subject to a total loss claim paid by an insurance company; or an export only motor vehicle; or sold, transferred;
- released to the former owner of the vehicle; or
- sold, transferred, or released to a buyer at a casual sale by a salvage vehicle dealer, insurance company, or salvage pool operator.

These specific requirements, formerly a part of the Transportation Code, §501.097 were removed by the Texas legislature during the 82nd Regular Session.

The proposed amendments simplify the application process for insurance companies making application under Transportation Code, §501.0925, by replacing the requirement for an insurance company to produce documents evidencing payment of a loss claim, such as an electronic check, cancelled check, or screen shot of payment from an insurance company's database, with a certification that the insurance company paid a loss claim for the vehicle that was accepted.

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Chapter 217, Vehicle Titles and Registration

1 Proposed Preamble

2 The Texas Department of Motor Vehicles (department) proposes  
3 amendments to Chapter 217, Vehicle Titles and Registration,  
4 Subchapter D, Nonrepairable and Salvage Motor Vehicles, §217.84,  
5 Application for Nonrepairable or Salvage Vehicle Title.

6

7 EXPLANATION OF PROPOSED AMENDMENTS

8 The proposed amendments to §217.84 delete requirements for  
9 applications for nonrepairable or salvage vehicle titles to make  
10 the rule consistent with Transportation Code, §501.097, and  
11 lessen the burden on insurance companies making application  
12 under §501.0925.

13

14 The proposed amendments delete certain required statements when  
15 making application for a nonrepairable or salvage title.

16 Specifically, the amendment deletes the requirement to state  
17 that a vehicle was: subject to a total loss claim paid by an  
18 insurance company; or an export only motor vehicle; or sold,  
19 transferred, or released to the former owner of the vehicle; or  
20 sold, transferred, or released to a buyer at a casual sale by a  
21 salvage vehicle dealer, insurance company, or salvage pool  
22 operator. These specific requirements, formerly a part of  
23 Transportation Code, §501.097 were removed by the Texas

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1 legislature in House Bill 2357, 82nd Regular Session, effective  
2 January 12, 2012.

3

4 The proposed amendments simplify the application process for  
5 insurance companies making application under Transportation Code  
6 §501.0925, by replacing the requirement for an insurance company  
7 to produce documents evidencing payment of a loss claim, such as  
8 an electronic check, cancelled check, or screen shot of payment  
9 from an insurance company's database, with a certification that  
10 the insurance company paid a loss claim for the vehicle that was  
11 accepted.

12

13 FISCAL NOTE

14 Linda M. Flores, Chief Financial Officer, has determined that  
15 for each of the first five years the amendments as proposed are  
16 in effect, there will be no fiscal implications for state or  
17 local governments as a result of enforcing or administering the  
18 proposed amendments.

19

20 Jeremiah Kuntz, Director of the Vehicle Titles and Registration  
21 Division, has determined that there will be no impact on local  
22 economies or overall employment as a result of enforcing or  
23 administering the proposed amendments.

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1

2 PUBLIC BENEFIT AND COST

3 Mr. Kuntz has also determined that for each year of the first  
4 five years the amendments are in effect, the public benefit  
5 anticipated as a result of enforcing or administering the  
6 amendment will be streamlining the requirements for insurance  
7 companies applying for a nonrepairable or salvage title and  
8 ensuring the rule is consistent with the Transportation Code.  
9 There are no anticipated economic costs for persons required to  
10 comply with the proposed amendments. There will be no adverse  
11 economic effect on small businesses, micro-businesses, or rural  
12 communities.

13

14 TAKINGS IMPACT ASSESSMENT

15 The department has determined that this proposal affects no  
16 private real property interests and that this proposal does not  
17 restrict or limit an owner's right to property that would  
18 otherwise exist in the absence of government action, and so does  
19 not constitute a taking or require a takings impact assessment  
20 under Government Code, §2007.043.

21

22 GOVERNMENT GROWTH IMPACT STATEMENT

23 The department has determined that during the first five years

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1 the proposed amendments are in effect, no government program  
2 would be created or eliminated. Implementation of the proposed  
3 amendments would not require the creation of new employee  
4 positions or elimination of existing employee positions.  
5 Implementation would not require an increase or decrease in  
6 future legislative appropriations to the department or an  
7 increase or decrease of fees paid to the department.  
8 Additionally, the proposed amendments do not create a new  
9 regulation, or expand, limit, or repeal an existing regulation.  
10 The proposed amendments do not affect the number of individuals  
11 subject to the rule's applicability and will not affect this  
12 state's economy.

13

14 SUBMITTAL OF COMMENTS

15 Written comments on the proposed amendments may be submitted to  
16 David D. Duncan, General Counsel, Texas Department of Motor  
17 Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email  
18 to *rules@txdmv.gov*. The deadline for receipt of comments is  
19 5:00 p.m. on \_\_\_\_\_.

20

21 STATUTORY AUTHORITY

22 The amendments are proposed under Transportation Code,  
23 §1002.001, which provides the board of the Texas Department of

Texas Department of Motor Vehicles  
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1 Motor Vehicles with the authority to adopt rules that are  
2 necessary and appropriate to implement the powers and the duties  
3 of the department; and more specifically, Transportation Code  
4 §501.0041, which provides the department may adopt rules to  
5 administer Transportation Code, Chapter 501, Certificate of  
6 Title Act.

7

8 CROSS REFERENCE TO STATUTE

9 Transportation Code, Chapter 501.

DRAFT

Texas Department of Motor Vehicles  
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1 SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

2 §217.84. Application for Nonrepairable or Salvage Vehicle Title.

3 (a) Place of application. The owner of a nonrepairable or  
4 salvage motor vehicle who is required to obtain or voluntarily  
5 chooses to obtain a nonrepairable or salvage vehicle title, as  
6 provided by §217.83 of this title (relating to Requirement for  
7 Non-repairable or Salvage Vehicle Title), shall apply for a  
8 nonrepairable or salvage vehicle title by submitting an  
9 application, the required accompanying documentation, and the  
10 statutory fee to the department.

11 (b) Information on application. An applicant for a  
12 nonrepairable or salvage vehicle title shall submit an  
13 application on a form prescribed by the department. A completed  
14 form, in addition to any other information required by the  
15 department, must include:

16 (1) the name and current address of the owner;

17 (2) a description of the motor vehicle, including the  
18 model year, make, body style, and vehicle identification number;

19 (3) a statement describing whether the motor vehicle  
20 is a nonrepairable or salvage motor vehicle; ~~and]~~

21 ~~[(A) was the subject of a total loss claim paid~~  
22 ~~by an insurance company under Transportation Code, §501.1001 or~~  
23 ~~§501.1002;]~~

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1                   ~~[(B) is a self insured motor vehicle under~~  
2 ~~Transportation Code, §501.091;]~~

3                   ~~[(C) is an export only motor vehicle under~~  
4 ~~Transportation Code, §501.099;]~~

5                   ~~[(D) was sold, transferred, or released to the~~  
6 ~~owner or former owner of the motor vehicle; or]~~

7                   ~~[(E) was sold, transferred, or released to a~~  
8 ~~buyer at casual sale by a salvage vehicle dealer, insurance~~  
9 ~~company, or salvage pool operator;]~~

10                   (4) whether the damage was caused exclusively by  
11 flood;

12                   (5) a description of the damage to the motor vehicle;

13                   (6) the odometer reading and brand, or the word  
14 "exempt" if the motor vehicle is exempt from federal and state  
15 odometer disclosure requirements, if the motor vehicle is a  
16 salvage motor vehicle;

17                   (7) the name and mailing address of any lienholder and  
18 the date of lien, as provided by subsection (e) of this section;  
19 and

20                   (8) the signature of the applicant or the applicant's  
21 authorized agent and the date the certificate of title  
22 application was signed.

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1 (c) Accompanying documentation. A nonrepairable or salvage  
2 vehicle title application must be supported, at a minimum, by:

3 (1) evidence of ownership, as described by subsection  
4 (d)(1) or (3) of this section, if the applicant is an insurance  
5 company that is unable to locate one or more of the owners;

6 (2) an odometer disclosure statement properly executed  
7 by the seller of the motor vehicle and acknowledged by the  
8 purchaser, if the motor vehicle is less than 10 model years old  
9 and the motor vehicle is a salvage motor vehicle; and

10 (3) a release of any liens.

11 (d) Evidence of nonrepairable or salvage motor vehicle  
12 ownership.

13 (1) Evidence of nonrepairable or salvage motor vehicle  
14 ownership properly assigned to the applicant must accompany the  
15 application for a nonrepairable or salvage vehicle title, except  
16 as provided by paragraph (2) of this subsection. Evidence must  
17 include documentation sufficient to show ownership to the  
18 nonrepairable or salvage motor vehicle, such as:

19 (A) a Texas Certificate of Title;

20 (B) a certified copy of a Texas Certificate of  
21 Title;

22 (C) a manufacturer's certificate of origin;

23 (D) a Texas Salvage Certificate;

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1 (E) a nonrepairable vehicle title;

2 (F) a salvage vehicle title;

3 (G) a comparable ownership document issued by  
4 another jurisdiction, except that if the applicant is an  
5 insurance company, evidence must be provided indicating that the  
6 insurance company is:

7 (i) licensed to do business in Texas; or

8 (ii) not licensed to do business in Texas,  
9 but has paid a loss claim for the motor vehicle in this state;

10 or

11 (H) a photocopy of the inventory receipt or a  
12 title and registration verification evidencing surrender to the  
13 department of the negotiable evidence of ownership for a motor  
14 vehicle as provided by §217.86 of this title (relating to  
15 Dismantling, Scrapping, or Destruction of Motor Vehicles), and  
16 if the evidence of ownership surrendered was from another  
17 jurisdiction, a photocopy of the front and back of the  
18 surrendered evidence of ownership.

19 (2) An insurance company that acquires ownership or  
20 possession of a nonrepairable or salvage motor vehicle through  
21 payment of a claim may apply for a nonrepairable or salvage  
22 vehicle title to be issued in the insurance company's name  
23 without obtaining an ownership document or if it received an

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1 ownership document without the proper assignment of the owner if  
2 the company is unable to obtain a title from the owner, in  
3 accordance with paragraph (1) of this subsection, and the  
4 application is not made earlier than the 30th day after the date  
5 of payment of the claim. The application must also include:

6 (A) a statement that the insurance company has  
7 provided at least two written notices to the owner and any  
8 lienholder attempting to obtain the title or proper assignment  
9 of title for the motor vehicle;

10 (B) a statement that the insurance company paid a  
11 loss claim for the vehicle that was accepted; and [a copy of a  
12 document:]

13 [~~(i) indicating that payment has been made,~~  
14 ~~including an electronic check, canceled check, or screen print~~  
15 ~~from the insurance company's database that identifies the type~~  
16 ~~of payment method; and]~~

17 [~~(ii) reflecting the vehicle identification~~  
18 ~~number, vehicle owner names, name of the person to whom payment~~  
19 ~~was made if different from vehicle owners, payment amount, and~~  
20 ~~date payment was issued; and]~~

21 (C) any unassigned or improperly assigned title  
22 in the insurance company's possession.

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1           (3) An insurance company that acquires, through  
2 payment of a claim, ownership or possession of a salvage motor  
3 vehicle or nonrepairable motor vehicle covered by an out-of-  
4 state ownership document may obtain a salvage vehicle title or  
5 nonrepairable vehicle title in accordance with paragraph (1) or  
6 (2) of this subsection if:

7                   (A) the motor vehicle was damaged, stolen, or  
8 recovered in this state; or

9                   (B) the motor vehicle owner from whom the company  
10 acquired ownership resides in this state.

11           (4) A salvage pool operator may apply for title in the  
12 name of the salvage pool operator by providing to the  
13 department:

14                   (A) documentation from the insurance company  
15 that:

16                           (i) the salvage pool operator, on request of  
17 an insurance company, was asked to take possession of the motor  
18 vehicle subject to an insurance claim and the insurance company  
19 subsequently denied coverage or did not take ownership of the  
20 vehicle; and

21                           (ii) the name and address of the owner of  
22 the motor vehicle and the lienholder, if any; and

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1                   (B) proof that the salvage pool operator, before  
2 the 31st day after receiving the information from the insurance  
3 company, sent a notice to the owner and any lienholder informing  
4 them that:

5                   (i) the motor vehicle must be removed from  
6 the location specified in the notice not later than the 30th day  
7 after the date the notice is mailed; and

8                   (ii) if the motor vehicle is not removed  
9 within the time specified in the notice, the salvage pool  
10 operator will sell the motor vehicle and retain from the  
11 proceeds any costs actually incurred by the operator in  
12 obtaining, handling, and disposing of the motor vehicle, except  
13 for charges:

14                   (I) that have been or are subject to  
15 being reimbursed by a third party; and

16                   (II) for storage or impoundment of the  
17 motor vehicle.

18                   (5) Proof of notice under this subsection consists of:

19                   (A) the validated receipts for registered or  
20 certified mail and return receipt or an electronic certified  
21 mail receipt, including signature receipt; and

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1 (B) any unopened certified letters returned by  
2 the post office as unclaimed, undeliverable, or with no  
3 forwarding address.

4 (e) Recordation of lien on nonrepairable and salvage  
5 vehicle titles. If the motor vehicle is a salvage motor vehicle,  
6 a new lien or a currently recorded lien may be recorded on the  
7 salvage vehicle title. If the motor vehicle is a nonrepairable  
8 motor vehicle, only a currently recorded lien may be recorded on  
9 the nonrepairable vehicle title.

10 (f) Issuance. Upon receipt of a completed nonrepairable or  
11 salvage vehicle title application, accompanied by the statutory  
12 application fee and the required documentation, the department  
13 will, before the sixth business day after the date of receipt,  
14 issue a nonrepairable or salvage vehicle title, as appropriate.

15 (1) If the condition of salvage is caused exclusively  
16 by flood, a "Flood Damage" notation will be reflected on the  
17 face of the document and will be carried forward upon subsequent  
18 title issuance.

19 (2) If a lien is recorded on a nonrepairable or  
20 salvage vehicle title, the vehicle title will be mailed to the  
21 lienholder. For proof of ownership purposes, the owner will be  
22 mailed a receipt or printout of the newly established motor  
23 vehicle record, indicating a lien has been recorded.

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1           (3) A nonrepairable vehicle title will state on its  
2 face that the motor vehicle may:

3                   (A) not be repaired, rebuilt, or reconstructed;

4                   (B) not be issued a regular certificate of title  
5 or registered in this state;

6                   (C) not be operated on a public highway; and

7                   (D) may only be used as a source for used parts  
8 or scrap metal.

DRAFT

DATE: October 4, 2018

Action Requested: APPROVAL

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**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Caroline Love, Government & Strategic Communications Division Director  
**Agenda Item:** 10.A  
**Subject:** Legislative & Public Affairs Committee Update – Recommended Legislation to the 86<sup>th</sup> Legislature

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**RECOMMENDATION**

Staff recommends the Board adopt the proposed legislative agenda as developed by Texas Department of Motor Vehicles (TxDMV) staff with stakeholder input and involvement. A summary of the proposed agenda will be presented for the Board's consideration.

**PURPOSE AND EXECUTIVE SUMMARY**

The TxDMV Board is charged with considering opportunities for improvements to operations with recommended changes to statute to the Texas Legislature under Texas Transportation Code, Section 1001.025. Throughout 2018 TxDMV's Government and Strategic Communications Division worked with staff to identify areas of statute for such recommendations, and further evaluated those recommendations with stakeholders to develop the attached agenda for the Board's further consideration.

The areas for consideration include efforts to provide for efficiencies and address issues identified when dealing with natural disasters, as well as several concepts approved by the TxDMV Board in previous sessions which did not become law.

**FINANCIAL IMPACT**

None, any impact would be dependent upon actions taken by the Legislature.

**BACKGROUND AND DISCUSSION**

Upon approval, the items contained in the proposed agenda will be reviewed for individual bill drafting and staff will discuss the concepts further with members of the legislature for potential filing. The Government and Strategic Communications Division will be providing regular updates throughout the session on the status of the approved agenda items.

DATE: October 4, 2018

Action Requested: BRIEFING

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**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Caroline Love, Government & Strategic Communications Division Director  
**Agenda Item:** 10.B  
**Subject:** Legislative & Public Affairs Committee Update – Agency Process for Legislative Session

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**PURPOSE AND EXECUTIVE SUMMARY**

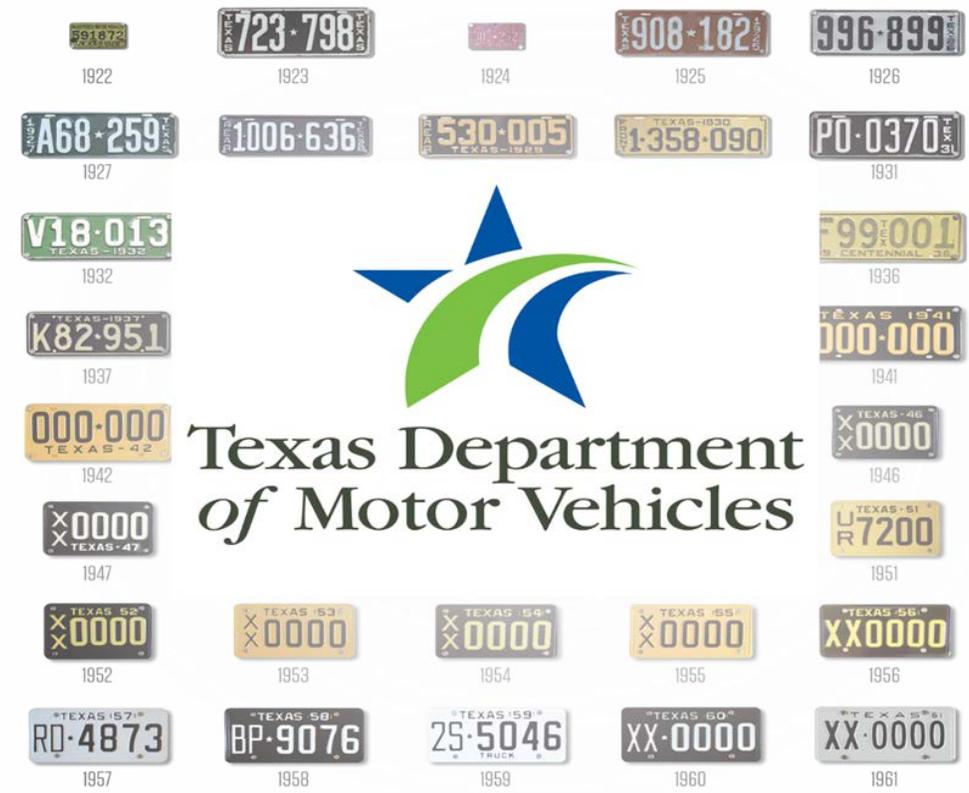
This briefing will cover the key dates for the 86<sup>th</sup> Legislative Session, as well as the responsibilities of the Government & Strategic Communications Division as it relates to the department's review and analysis of legislation, coordination of the department in legislative hearings and meetings, and providing updates to department leadership and the TxDMV Board. The briefing will also cover what to expect from the Legislature's consideration of the TxDMV continuing legislation as it relates to the Sunset process.

**FINANCIAL IMPACT**

None.

**BACKGROUND AND DISCUSSION**

The Government & Strategic Communications Division will be providing regular updates throughout the session on the status of legislation impacting the department.



# Texas Department of Motor Vehicles Legislative and Public Affairs Committee Update

## TxDMV Board 86<sup>th</sup> Legislative Agenda – Item 10.A



- The Texas Department of Motor Vehicles (TxDMV) Board is charged with considering opportunities to improve the operations of the department and recommending statutory changes to the Texas Legislature under Texas Transportation Code, Section 1001.025.
- Earlier this year TxDMV's Government and Strategic Communications Division worked with all the department's divisions and offices to identify statutory changes the board could recommend.
- Several department stakeholders received a copy of the draft recommended changes and provided feedback, including the Tax Assessor-Collector Association, Texas Trucking Association, Texas Recreational Vehicle Association, Texas Towing & Storage Association, Alliance of Auto Manufacturers, Texas Independent Auto Dealers Association, Texas Automobile Dealers Association, Insurance Auto Auctions, United States Automobile Association, Texas Southwester Cattle Raisers Association, Copart, Texas Food and Fuels Association, Texas Farm Bureau, Texas Oil & Gas Association, State Farm, Property Casualty Insurers Association of America, and the National Association of Mutual Insurance Companies.
- Recommendations were presented to the Legislative & Public Affairs Committee October 3, 2018
- TxDMV Board to consider adoption of recommended changes October 4, 2018



## TxDMV Board 86<sup>th</sup> Legislative Agenda – Item 10.A

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- The draft recommended changes include the following:
  - **Enhanced responsiveness to natural disasters**
    - Allowing residents from a declared disaster area 30 days after registration expiration to renew during a disaster without being subject to a ticket/citation
    - Insurance company requirements related to ownership of vehicles determined salvage or non-repairable when a claim has been paid associated with a declared natural disaster
    - Creating a definition of what constitutes a “flood vehicle” in statute and how such vehicles will be titled
  - **Creating efficiencies in processes**
    - Deposit Auto Burglary and Theft Prevention Authority (ABTPA) appropriations to the TxDMV Fund to provide for consistent method of finance for department functions and operations
    - Repealing the statutory requirement to issue oversize/overweight permits by phone
    - Exempting materials from investigations from Public Information Act requirements until the conclusion of the investigation
    - Repealing a requirement that the department create an inventory form for salvage dealers
    - Restructuring the current title dispute process to provide for more consistent use of the process statewide
    - Allow the department to require escort flaggers if needed for as part of issuing an oversize/overweight permit



## TxDMV Board 86<sup>th</sup> Legislative Agenda – Item 10.A

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- The draft recommended changes include the following (continued):
  - **Previous TxDMV Board recommendations**
    - Allowing for administrative sanctions for loading a vehicle in excess of size (and not just weight)
    - Allowing for the denial of an oversize/overweight permit if the applicant has been placed “out-of-service” by the Federal Motor Carrier Safety Administration or the Texas Department of Public Safety
    - For any newly created oversize/overweight permit, add a general provision that TxDMV retain 10% of the permit fee to cover administrative costs
    - Require the person/entity listed on the oversize/overweight permit be the person/entity moving the load
    - If a shipper does not provide a certificate of weight when requested to by a carrier, provide for an administrative penalty
  - **General Clarification**
    - Clarifying motor vehicle dealers can only sell vehicles from their licensed location
    - Clarifying the Comptroller distributes oversize/overweight permit revenues to the county

# 86<sup>th</sup> Legislative Session Process – Item 10.B



- Agency Process for the Legislative Session
  - **Key Dates for the 86<sup>th</sup> Legislative Session include:**
    - November 12, 2018: Bill Filing Starts
    - January 8, 2019: First Day of Session
    - March 8, 2019: Last Day to File Legislation
    - May 27, 2019: Sine Die
  - **The Government and Strategic Communications Division (GSC) will:**
    - Identify and follow all legislation filed potentially impacting department operations or processes
      - Meet weekly with the TxDMV Executive Team and department subject matter experts to discuss legislation filed of interest and potential impacts to the department
      - Develop legislative analyses of legislation and work with legislative offices as needed to provide information
      - Develop fiscal impact statements in conjunction with the Finance & Administrative Services and impacted divisions
      - Provide status reports to the Executive Team and TxDMV Board regarding legislation identified with a potential impact
    - Coordinate the department's participation in legislative hearings and meetings
    - Monitor all substantive hearings and floor activities
    - Provide reports to the Executive Team and TxDMV Board on important hearings and floor activities



# Questions

DATE: October 4, 2018

Action Requested: BRIEFING

**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Whitney Brewster, Executive Director  
**Agenda Item:** 10.C  
**Subject:** Implementation of Sunset Advisory Commission's Recommendations

### **RECOMMENDATION**

No action requested – briefing only.

### **PURPOSE AND EXECUTIVE SUMMARY**

The purpose of this agenda item is to provide a status update on implementation of recommendations adopted by the Sunset Advisory Commission as published in the Sunset Advisory Commission Staff Report with Commission Decisions.

### **BACKGROUND AND DISCUSSION**

Several recommendations adopted by the Sunset Advisory Commission are management actions, which are effective immediately upon adoption. Other recommendations are statutory changes that will be part of TxDMV's Sunset Bill, which will be filed in January 2019. This briefing provides an overview of the status of the Sunset Advisory Commission's recommendations.

Three recommendations have been fully implemented:

- 3.8 (regarding publishing penalty matrices)
- 4.5 (regarding criminal history checks for motor vehicle license renewals)
- 4.7 (regarding unnecessary application requirements for salvage licenses)

Sixteen recommendations are in progress:

- 1.3 (regarding rules and policies for standards of conduct and handling of contested cases coming before the board)
- 1.4 (regarding board training)
- 1.7 (regarding advisory committees)
- 2.2 (regarding rules and procedures for TxDMV's red flag process and reporting of suspected fraud, waste, or abuse by county tax assessor-collectors)
- 2.3 (regarding fraud training)
- 2.4 (regarding implementation of a proactive, risk-based approach to monitoring fraud)
- 2.5 (regarding audits or reviews of entities providing registration and title services)
- 3.4 (regarding complaint resolution timeframes)
- 3.5 (regarding criteria for prioritizing investigations and inspections)
- 3.6 (regarding enforcement data tracking)
- 3.7 (regarding key performance indicators and annual enforcement reports)
- 3.9 (regarding publication of enforcement histories of regulated businesses)
- 5.3 (regarding complaints)
- 5.4 (regarding IT infrastructure)
- 5.5 (regarding customer service functions)
- New recommendation regarding completion date of House Bill 1959 (85R) Study

Completed or  
No Action Necessary

In Progress

Not Started

## Texas Department of Motor Vehicles Sunset Decision Tracking Document

ISSUE 1 – <i>The Department’s Industry-Oriented Board and Its Processes Create Risk for the State.</i>		
Recommendation	Due Date	Owner
<b>Recommendation 1.1</b> , Adopted as Modified — Replace the original staff recommendation with the following. Direct the Sunset Commission to request that the Legislature examine all state boards, including the Texas Department of Motor Vehicles board, for any legislation needed to mitigate the potential liability of boards controlled by active market participants. ( <b>Management action – nonstatutory</b> )	No TxDMV Action necessary	N/A
<b>Recommendation 1.2</b> , Not Adopted — Require the governor to designate a public member as the presiding officer of the department’s board.	No TxDMV Action necessary	N/A
<b>Recommendation 1.3</b> , Adopted — Require the board to adopt rules and policies to establish clear standards for conduct and handling of contested cases coming before the board for final decisions.	Statutory Change; No date specified in report	Office of General Counsel
<b>Recommendation 1.4</b> , Adopted as Modified — Update and modify the standard Sunset across-the-board requirement related to board member training to include a provision that ensures the training addresses concerns of potentially anticompetitive behavior.	Statutory Change; No date specified in report	Office of General Counsel
<b>Recommendation 1.5</b> , Adopted — Remove the board’s exemption from providing balanced representation on its advisory committees.	Statutory Change; March 1, 2020	Office of General Counsel
<b>Recommendation 1.6</b> , Adopted — Apply the Sunset across-the-board requirement related to negotiated rulemaking and dispute resolution.	Statutory Change; No date specified in report	Office of General Counsel
<b>Recommendation 1.7</b> , Adopted — Direct the board to establish advisory committees to provide expertise for rulemaking and other issues and adopt rules regarding standard committee structure and operating criteria. ( <b>Management action – nonstatutory</b> )	September 1, 2019	Office of General Counsel
ISSUE 2 – <i>Texas Lacks Basic Safeguards to Identify and Address Vehicle Title Fraud.</i>		
Recommendation	Due Date	Owner

<p><b>Recommendation 2.1</b>, Adopted — When outsourcing state services to full-service deputies, require counties to follow standard contracting practices.</p>	<p>December 1, 2019</p>	<p>Vehicle Title and Registration Division</p>
<p><b>Recommendation 2.2</b>, Adopted as Modified — Clarify the department’s authority to control access to the registration and title system. Also require the department, by March 1, 2020, to work with county tax assessor-collectors to create clear criteria for the department to suspend or deny access to the registration and title system when a county tax assessor-collector suspects abuse, fraud, or waste of the system by an employee or a full-service deputy. <u>The department must adopt rules regarding criteria to suspend access to the registration and title system by March 1, 2020.</u></p> <p>In addition to the statutory recommendation, direct the department, as a <b>management action</b>, to adopt rules to</p> <ul style="list-style-type: none"> <li>• formalize the department’s current “red flag” fraud warning system, further developing and implementing a clear and efficient path for county tax assessor-collectors to report suspected fraud, waste, or abuse of the registration and title system by employees, dealers, and full-service deputies; and</li> <li>• provide an option for a county to request action for suspected fraud or abuse, such as immediately suspending access to the registration and title system.</li> </ul>	<p>Statutory Change; March 1, 2020</p> <p>No Date Specified in Report for Management Action</p>	<p>Compliance and Investigations Division</p>
<p><b>Recommendation 2.3</b>, Adopted as Modified — Implement mandatory fraud training for all persons processing state registration or title transactions. Also, as a <b>management action</b>, specify the training will be provided online or in-person as needed, prior to gaining access to the registration and title system.</p>	<p>December 1, 2019</p>	<p>Vehicle Title and Registration Division</p>
<p><b>Recommendation 2.4</b>, Adopted as Modified — Require the department to implement a proactive, risk-based approach to monitoring fraud. In addition to the statutory recommendation, direct the department, <b>as a management action</b>, to share best practice protocols with county tax assessor-collectors to implement such fraud monitoring.</p>	<p>No date specified in report</p>	<p>Compliance and Investigations Division</p>
<p><b>Recommendation 2.5</b>, Adopted as Modified — Authorize the department to audit or perform a compliance review of any entity providing registration and title services, and to access records needed to conduct audits or fraud investigations. This recommendation would also authorize county tax assessor-collectors to audit or perform a compliance review of any entity providing registration and title services in the county, and to access records needed to conduct audits or fraud investigations. The authority of the county tax assessor-collectors to perform audits and compliance reviews does not in any way limit the department’s authority to audit or perform a</p>	<p>Statutory Change; No date specified in report</p>	<p>Compliance and Investigations Division</p>

compliance review of any entity providing registration and title services.		
<b>Recommendation 2.6</b> , Adopted — Authorize ABTPA grant recipients to use funds to combat a broader range of motor vehicle crimes, such as title and odometer fraud, beyond just automobile burglary and theft.	Statutory Change; No date specified in report	Automobile Burglary and Theft Prevention Authority
<i>ISSUE 3 – The Department’s Approach to Enforcement Does Not Effectively Address the Biggest Risks to the Public.</i>		
Recommendation	Due Date	Owner
<b>Recommendation 3.1</b> , Adopted — Remove statutory exceptions from standard enforcement practices or deceptive advertising violations by motor vehicle dealers.	Statutory Change; No date specified in report	Enforcement Division
<b>Recommendation 3.2</b> , Adopted — As part of the department’s enforcement authority, authorize refunds for consumers for motor vehicle and motor carrier violations.	Statutory Change; No date specified in report	Enforcement Division
<b>Recommendation 3.3</b> , Adopted — Authorize the department to use cease-and-desist authority for unlicensed salvage activity.	Statutory Change; No date specified in report	Enforcement Division
<b>Recommendation 3.4</b> , Adopted — Direct the department to identify and implement methods to reduce its complaint resolution timeframes. ( <b>Management action – nonstatutory</b> )	December 1, 2018	Enforcement Division
<b>Recommendation 3.5</b> , Adopted — Direct the department to develop clear guidance and criteria for prioritizing investigations and inspections. ( <b>Management action – nonstatutory</b> )	March 1, 2019	Enforcement Division
<b>Recommendation 3.6</b> , Adopted — Direct the department to improve enforcement data tracking in its existing systems. ( <b>Management action – nonstatutory</b> )	No date specified in report	Enforcement Division
<b>Recommendation 3.7</b> , Adopted — Direct the department to revise and expand key performance indicators and annual enforcement reports to better assess effectiveness and efficiency and provide more visibility of its enforcement program. ( <b>Management action – nonstatutory</b> )	No date specified in report	Enforcement Division
<b>Recommendation 3.8</b> , Adopted — Direct the department to publish penalty matrices. ( <b>Management action – nonstatutory</b> )	No date specified in report; Fully implemented	Enforcement Division
<b>Recommendation 3.9</b> , Adopted — Direct the department to publish more detailed enforcement histories of regulated motor vehicle and motor carrier businesses. ( <b>Management action – nonstatutory</b> )	No date specified in report	Enforcement Division

ISSUE 4 – Key Elements of the Department’s Licensing Functions Do Not Conform to Common Licensing Standards.		
Recommendations	Due Date	Owner
<b>Recommendation 4.1</b> , Adopted — Eliminate motor vehicle show and exhibition approval requirements.	Statutory Change; No date specified in report	Motor Vehicle Division
<b>Recommendation 4.2</b> , Adopted as Modified — Eliminate the representative and salvage agent licenses, but maintain the lease facilitator license.	Statutory Change; No date specified in report	Motor Vehicle Division
<b>Recommendation 4.3</b> , Adopted — Eliminate separate salvage license endorsements and establish a single, streamlined salvage license.	Statutory Change; No date specified in report	Motor Vehicle Division
<b>Recommendation 4.4</b> , Adopted — Authorize the department to set salvage license terms in rule.	Statutory Change; No date specified in report	Motor Vehicle Division
<b>Recommendation 4.5</b> , Adopted — Direct the department to conduct criminal history checks for all motor vehicle license renewals. (Management action – nonstatutory)	No date specified in report; Fully implemented	Motor Vehicle Division
<b>Recommendation 4.6</b> , Adopted — Direct the department to adopt criminal history evaluation rules and guidelines consistent with Chapter 53, Texas Occupations Code for salvage industry regulation. (Management action – nonstatutory)	No date specified in report	Motor Vehicle Division
<b>Recommendation 4.7</b> , Adopted — Remove unnecessary application requirements for salvage licenses. (Management action – nonstatutory)	No date specified in report; Fully implemented	Motor Vehicle Division
ISSUE 5 – Texas Has a Continuing Need for the Texas Department of Motor Vehicles, but Opportunities Exist to Better Leverage State IT Investments.		
Recommendation	Due Date	Owner
<b>Recommendation 5.1</b> , Adopted — Continue the Texas Department of Motor Vehicles for 12 years.	Statutory Change; No TxDMV Action necessary	N/A
<b>Recommendation 5.2</b> , Adopted — Require the department to ensure webDEALER is available to automobile dealers in all Texas counties by September 1, 2020.	Statutory Change; September 1, 2020	Vehicle Title and Registration Division
<b>Recommendation 5.3</b> , Adopted — Apply the standard across-the-board requirement related to complaints.	Statutory Change; No date specified in report	Office of Innovation and Strategy

<p><b>Recommendation 5.4, Adopted</b> — Direct the department to develop a comprehensive approach to developing, maintaining, and updating its IT infrastructure. <b>(Management action – nonstatutory)</b></p>	<p>No date specified in report</p>	<p>Information Technology Services Division</p>
<p><b>Recommendation 5.5, Adopted</b> — Direct the department to evaluate and identify further opportunities to consolidate and modernize its customer service functions to improve efficiency and customer experience. <b>(Management action – nonstatutory)</b></p>	<p>No date specified in report</p>	<p>Executive Office</p>
<p><i>Adopted New Recommendations</i></p>		
<p>Recommendation</p>	<p>Due Date</p>	<p>Owner</p>
<p><b>Completion Date of House Bill 1959 (85R) Study</b> Direct the department to conduct the existing contracted study to identify and assess alternative technologies for registering commercial vehicles to replace license plates, permits, and other documentation and registration methods currently in use by the state, and evaluate the safety and suitability for identified technologies for use on roadways, as required under House Bill 1959 (85th Legislature, Regular Session) by March 31, 2019 instead of December 1, 2021. Also, direct the department to include an analysis of any statutory impediments to conducting a pilot program as described in H.B. 1959 as part of this study. <b>(Management action – nonstatutory)</b></p>	<p>March 31, 2019</p>	<p>Office of Innovation and Strategy</p>
<p><b>Licensing and Inspection of Salvage Dealers</b> As part of the license application process for a salvage vehicle dealer, direct the department to consider the criminal background of an applicant’s partner, company principal, officer, or general manager as a qualifying factor when determining whether to issue a license. <b>(Management action – nonstatutory)</b></p> <p>Direct the department to establish a risk-based approach to its salvage vehicle dealer inspections. As part of the risk-based inspections, the department should consider factors including inspection history, complaint history, and any other factors determined by department rule. <b>(Management action – nonstatutory)</b></p>	<p>No date specified in report</p>	<p>Motor Vehicle Division</p> <p>Enforcement Division</p>
<p><b>Audits of Tax Assessor-Collectors</b> Require the department to coordinate with the comptroller of public accounts and authorize the comptroller of public accounts to include, at the comptroller’s discretion and as part of its ongoing audits of state revenue collections by county tax assessor-collector offices, a review of processes relating to a county’s collection and remittance of revenues included in the audit.</p>	<p>No date specified in report</p>	<p>Compliance and Investigations Division</p>

DATE: October 4, 2018

Action Requested: APPROVAL

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**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Corrie Thompson, Director, Enforcement Division  
**Agenda Item:** 10 D  
**Subject:** Request Board Approval of Policy, TxDMV Guidance on Enforcement Case Prioritization and Complaint Resolution, to Implement Sunset Advisory Commission's Recommendations 3.4 and 3.5.

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**RECOMMENDATION**

Approval of Policy, TxDMV Guidance on Enforcement Case Prioritization and Complaint Resolution, to implement Sunset Advisory Commission's Recommendations 3.4 and 3.5.

**PURPOSE AND EXECUTIVE SUMMARY**

Approval of the policy fulfills requirements set out in Sunset Advisory Commission Recommendations 3.4 and 3.5.

**FINANCIAL IMPACT**

There will be no fiscal implications for state or local governments as a result of enforcing or administering the policy. There are no anticipated economic costs for persons required to comply with the policy.

**BACKGROUND AND DISCUSSION**

During their review, Sunset made recommendations to help the department reduce its complaint resolution timeframes. As part of that recommendation they are requiring that the board approve new policies to identify and address factors that contribute to long complaint resolution timeframes, including:

- Developing an intake system and to close and refer nonjurisdictional complaints,
- Identify stages where delays occur in order to minimize the potential for bottlenecks,
- Develop priorities based on type of allegation and associated risk balanced with the need to close the oldest outstanding cases, and
- Present long-pending cases to the board for the review

The policy being present does just this, and provides a commitment to the goals identified by Sunset. The policy refers to Standard Operating Procedures the Enforcement Division has created, and those Standard Operating Procedures contain details as to how to accomplish the stated goals.



# TxDMV Guidance on Enforcement Case Prioritization and Complaint Resolution

## Purpose

This policy establishes the priorities of the Enforcement Division in conducting investigation and inspection activities, consistent with the recommendations set forth in the Sunset Advisory Commission's Staff Report for the Texas Department of Motor Vehicles, published for the 86<sup>th</sup> Legislature (2018-2019), Recommendations 3.4 and 3.5.

## Scope

This policy will be used by TxDMV executive management and the management staff of the Enforcement Division when determining the division's allocation of resources, key performance indicators, standard operating procedures, and staff performance goals.

## Policy

### 1.0 General

The purpose of the policy is to develop clear prioritization criteria that will ensure the most efficient allocation of resources toward complaints alleging the most serious risks to the public, balanced with the need to resolve the oldest outstanding cases.

### 2.0 Responsibilities

1. The Enforcement Division will prioritize investigations based on types of allegations and their associated risk to the public. The division shall specify, in its Standard Operating Procedures (SOPs), a process that uses the following criteria to assess a case's priority: the nature of each complaint, the source of the complaint, and the enforcement history of the subject of the investigation. The SOPs, at a minimum, will include the following:
  - a. Higher priority shall be assigned to cases that represent the greatest risk to public safety, followed by cases that allege potential or actual consumer harm.
  - b. Higher priority shall be assigned to cases referred from other public entities, such as law

- enforcement, federal or state agencies, or tax authorities.
- c. A history of prior violations by the subject of the investigation shall also be considered when assigning case priority.
2. The Enforcement Division will address the department's need to close its oldest outstanding cases.
    - a. At least twice per year, the division Director or a designee shall present to the Board for review cases pending longer than three years and the reasons that the cases remain pending. The presentation need not address cases undergoing adjudication proceedings (i.e. contested cases).
    - b. The division shall develop SOPs that, at a minimum, will:
      - i. Establish clear timelines and expectations for case resolution.
      - ii. Establish internal performance measures for investigators.
    - c. The SOPs shall also ensure that the department investigates complaints as thoroughly as necessary before closing a case, as quality should not suffer to gain more expedient case resolution.
  3. The Enforcement Division shall identify and address factors in the enforcement process that contribute to long complaint resolution timeframes. The division shall develop SOPs that, at a minimum, will:
    - a. Develop a complaint intake system to centrally close and refer nonjurisdictional complaints to the appropriate agencies to allow investigators to more efficiently focus on resolving outstanding jurisdictional complaints.
    - b. Identify stages of the department's investigative process that delay complaint resolution and implement changes to minimize identified bottlenecks.
    - c. The SOPs shall be reviewed periodically, at least once per biennium, to ensure that procedural challenges to complaint resolution times are efficiently addressed.

## Enforcement

Compliance with this policy will be addressed through the Internal Audit division pursuant to their policies and procedures.

## Associated Policies

N/A

## References

Sunset Advisory Commission's Staff Report for the Texas Department of Motor Vehicles, published for the 86<sup>th</sup> Legislature (2018-2019), Recommendations 3.4 and 3.5.

## Version History

Version number	Date of Revision	Changes Made
Version 1.0	October X, 2018	N/A

## Contact Information

Corrie Thompson, Enforcement Division Director  
EMAIL: Corrie.Thompson@TxDMV.gov OFFICE: 512.465.1205

## Approval and Adoption

DATE: October 04, 2018  
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Sandra Menjivar-Suddeath, Internal Audit Director  
Agenda Item: 11A  
Subject: Internal Audit Division Charter

### RECOMMENDATION

Recommendation to approve the TxDMV Internal Audit Charter.

### PURPOSE AND EXECUTIVE SUMMARY

The Texas Department of Motor Vehicles (TxDMV) *Internal Audit Charter* outlines the vision, mission, goals, purpose, authority, scope, and responsibilities of the internal audit function. It establishes the independence and objectivity of the internal audit function to provide assurance services (audits) and advisory services (consulting) to the TxDMV Board and TxDMV Management. It further gives authority to the internal audit function to have full access to records, personnel, and physical properties needed to conduct assurance and advisory services.

### FINANCIAL IMPACT

None.

### BACKGROUND AND DISCUSSION

The Internal Audit Division (IAD) revised its Internal Audit Charter to better align the charter with the division's role in the Department. The audit charter, due to audit standards, require the approval from the TxDMV Board to go into effect.

The proposed changes to the Internal Audit Charter include the following:

- Vision, Mission, and Goals
  - In June 2018, the IAD drafted new Vision, Mission, and Goal statements to align the division more closely with the priorities of the TxDMV. The Vision, Mission, and Goals statements reflect the proactive, forward-looking orientation of the TxDMV.
  - The Vision, Mission, and Goals statements have allowed IAD to better define their scope in their charter and to improve its Quality Assurance and Improvement Program. The defined scope and Quality Assurance and Improvement Program are now documented in the internal audit charter.
- Revision to audit standards
  - The IAD follows the *Institute of Internal Auditors' International Professional Practices Framework* and the *Generally Accepted Government Auditing Standards (GAGAS)* (audit standards). Updates to the audit standards required the IAD to update its charter.
- Quality Assurance and Improvement Program
  - The Internal Audit Division's (IAD) Quality Assurance and Improvement Program found an opportunity to strengthen the Internal Audit Charter by explicitly stating the division adheres to the Definition of Internal Auditing promulgated by the Institute of Internal Auditors.



## Internal Audit Charter

### Introduction

This charter sets forth the mission, purpose, authority, and responsibility of the internal audit activity (i.e., Internal Audit Division) at the Texas Department of Motor Vehicles (TxDMV). The charter establishes the Internal Audit Division's position within the TxDMV; authorizes access to records, personnel, and physical properties needed to conduct engagements; and defines the scope of the internal audit activities. The Internal Audit Division helps enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight. The Internal Audit Division also helps TxDMV accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management, and control processes.

### Audit Standards

The Internal Audit Division will govern itself by adherence to the mandatory elements of the Institute of Internal Auditors' *International Professional Practices Framework*, including the Core Principles for the Professional Practice of Internal Auditing, the Code of Ethics, the International Standards for the Professional Practice of Internal Auditing, and the Definition of Internal Auditing. Internal Audit will also follow the *Generally Accepted Government Auditing Standards* (GAGAS) as promulgated by the U.S. Government Accountability Office (GAO). The Internal Audit Director will report annually to TxDMV executive management and the TxDMV Board regarding the Internal Audit Division's conformance to the auditing standards.

In addition, internal audit employees will adhere to the TxDMV's policies and procedures and the Internal Audit Division's standard operating procedures.

### Vision, Mission, and Goals

#### Vision

To be a future focused internal audit function protecting and serving the Department and its customers.

#### Mission

To identify emerging strategic risks, support adaptability in an evolving environment, and foster trusted relationships and an ethical environment.

#### Goals

The Internal Audit Division will use a proactive future-based approach to provide opinions on industry risks, current events, and the anticipated impacts to the Department through audits and advisory services. The Internal Audit Division will also strategically assess its effectiveness and progressively improve roles through actively engaging in outreach and providing opportunities for feedback. In addition, the Internal Audit Division will conduct

informational campaigns<sup>1</sup> and investigate internal fraud, waste, and abuse allegations.

## Purpose

The Internal Audit Division provides assurance services to the TxDMV Board by conducting audits of the Department's functions, operations, and information systems. Assurance services may include financial audits, compliance audits, economy and efficiency audits, effectiveness audits, and investigations. The Internal Audit Division also offers advisory services, the nature and scope of which may be agreed upon with TxDMV executive management or the Board. An advisory service is intended to add value and improve agency operations and may include, but are not limited to, advice and counsel, facilitation, and training. In addition, the Division will investigate suspected internal fraud, waste, or abuse allegations as necessary.

## Authority

The Internal Audit Division, with strict accountability for confidentiality and safeguarding records and information, is authorized full, free, and unrestricted access to all of TxDMV records, physical properties, and personnel pertinent to carrying out any engagement. All employees are expected to assist the Internal Audit Division. The Internal Audit Division will also have free and unrestricted access to the TxDMV Board and its members and any TxDMV related records they possess.

The Internal Audit Director is authorized to do the following:

- Access (unrestricted), in the performance of authorized audits and other engagements and with strict accountability for safekeeping and confidentiality, to all TxDMV activities, records, manual and automated systems, properties, and personnel.
- Audit or review any function, activity, or unit of the TxDMV, including vendors, contractors, and subcontractors (to the extent as related to the vendor/contractor/subcontractor deliverables and/or statements of work in applicable TxDMV contracts).
- Communicate and interact directly with the TxDMV Board and present any matter that may warrant immediate attention or action.
- Present any matter and have direct access to the TxDMV executive director that may warrant immediate attention or action.
- Allocate resources, set frequencies, select subjects, determine scopes of work, and apply the techniques required to accomplish the audit objectives, and issue reports.
- Obtain the necessary assistance of personnel in TxDMV units, as well as other specialized services from within or outside of TxDMV that the Internal Audit Director engages for consulting with internal audit or providing assurance services.

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<sup>1</sup> Informational campaigns can include providing training and information on detecting and defining fraud, waste, and abuse.

The Internal Audit Division is not authorized to complete the following:

- Perform any operational duties for TxDMV.
- Initiate or approve financial transactions external to the internal audit function.
- Direct the activities of any TxDMV employee not employed by the Internal Audit Division, except to the extent such employees have been assigned to the internal audit function or to otherwise assist the Internal Audit Director.

### Independence and Objectivity

To assure the independence of the internal audit function, the Internal Audit Director reports functionally to the TxDMV Board and its Finance and Audit Committee and administratively to the Executive Director.

The Internal Audit Division will remain free from control by TxDMV employees, including matters of audit selection, scope, procedures, frequency, timing, or report content to permit maintenance of an independent and objective state of mind. The Internal Audit Division will also remain free from all restrictions that threaten the ability of internal auditors to carry out their responsibilities in an unbiased manner.

The Internal Audit Division and its staff will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined. Internal auditors will make a balanced assessment of all relevant circumstances and not be influenced by their own interests or by others in forming judgments.

The Internal Audit Division and its staff will have no direct operational responsibility or authority over any of the activities audited. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity related to non-audit functions that may impair internal auditor's independence. Internal auditor will not assess specific operations for which they had responsibility within the previous year.

The Internal Audit Division and its staff will conduct the following:

- Disclose any impairment of independence or objectivity, in fact or appearance, to appropriate parties.
- Exhibit professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined.
- Take necessary precautions to avoid being unduly influenced by their own interests or by others in forming judgments.
- Establish safeguards to limit impairments to independence or objectivity if the Internal Audit Director has or is expected to have roles and/or responsibilities that fall outside of internal auditing.

The Internal Audit Director will confirm to the TxDMV Board at least annually, the organizational independence of the Internal Audit Division.

The Internal Audit Director will disclose to the TxDMV Board or the Finance & Audit Committee any interference and related implications in determining the scope of internal auditing, performing work, and/or communicating results.

## Scope

The scope of Internal Audit Division encompasses, but is not limited to, objective examinations of evidence for the purpose of providing independent assessments to the TxDMV Board, management, and outside parties on the adequacy and effectiveness of governance, risk management, and control processes for TxDMV and fraud, waste, and abuse activities. Internal audit assessments include evaluating the following:

- Risks, relating to the achievement of TxDMV's strategic objectives, are appropriately identified and managed.
- Actions of TxDMV staff and contractors follow TxDMV's policies, procedures, and applicable laws, regulations, and governance standards.
- Results of operations or programs are consistent with established goals and objectives.
- Operations or programs are being carried out effectively and efficiently.
- Information and the means used to identify, measure, analyze, classify, and report such information are reliable and have integrity.
- Resources and assets are acquired economically, used efficiently, and protected adequately.
- Established processes and systems enable compliance with the policies, procedures, laws, and regulations that could significantly impact TxDMV
- Fraud, waste, and abuse has occurred.

The Internal Audit Director will report periodically to TxDMV executive management and the TxDMV Board regarding:

- The Internal Audit Division's purpose, authority, and responsibility
- The Internal Audit Division's plan and performance relative to its plan
- The Internal Audit Division's conformance with audit standards
- Significant risk exposures and control issues, including fraud, waste, and abuse risks, governance issues, and other matters requiring the attention of, or requested by, the TxDMV Board
- Results of audit engagements or other activities
- Resource requirements

- Any risk accepted that may be unacceptable

The Internal Audit Director will also coordinate activities, where possible, and considers relying upon the work of other internal and external assurance and consulting service providers as needed. Opportunities for improving the efficiency of governance, risk management, and control processes may be identified during engagements. These opportunities will be communicated to the appropriate level of management.

## Responsibilities

The **TxDMV Board** will perform the following duties:

- Approve the internal audit charter.
- Approve the risk-based internal audit plan.
- Approve the annual internal audit budget and resource plan.
- Receive communications from the Internal Audit Director on the Internal Audit Division's performance relative to the plan and other matters.
- Approve decisions regarding the appointment and removal of the Internal Audit Director.
- Provide an annual performance evaluation of the Internal Audit Director.
- Approve the remuneration of the Internal Audit Director.
- Review the resources dedicated to the internal audit program and determine if adequate resources exist to ensure that risks identified in the annual risk assessment are adequately covered within a reasonable time frame.
- Make appropriate inquiries of management and the Internal Audit Director to determine whether there is inappropriate scope or resource limitation.

The **Internal Audit Director** is will performing the following duties:

- Submit, at least annually, a risk-based internal audit plan for review and approval.
- Communicate the impact of resource limitations on the internal audit plan.
- Review and adjust the internal audit plan, as necessary, in response to changes in TxDMV's business, risks, operations, programs, systems, and controls.
- Communicate any significant interim changes to the internal audit plan to the TxDMV Board and executive management.
- Ensure each engagement of the internal audit plan is executed, including the establishment of objectives and scope, the assignment of appropriate and adequately supervised resources, the documentation of work programs and testing results, and the communication of engagement results with applicable conclusions and recommendations to appropriate parties.

- Follow up on engagement results and management action plans, and reporting periodically any corrective actions not effectively implemented.
- Ensure the principles of integrity, objectivity, confidentiality, and competency are applied and upheld.
- Ensure the Internal Audit Division collectively possesses or obtains the knowledge, skills, and other competencies needed to meet the requirements of the internal audit charter.
- Ensure trends and emerging issues that could impact TxDMV are considered and communicated as appropriate.
- Ensure emerging trends and successful practices in internal auditing are considered.
- Establish and ensure adherence to policies and procedures designed to guide the Internal Audit Division.
- Ensure conformance of the Internal Audit Division with audit standards.
- Act as agency liaison for all external auditors and monitors.
- Establish a quality assurance program by which the Internal Auditor assures the TxDMV Board that operations of internal auditing activities are acceptable.
- Prepare final reports of findings and recommendations for review by the TxDMV Executive Director, the TxDMV Board, and subsequent distribution to the Office of the Governor, Legislative Budget TxDMV Board, Sunset Advisory Commission, and State Auditor's Office as specified by the Texas Internal Auditing Act.
- Prepare an annual report for review by the TxDMV Board and submission pursuant to the requirements of the Act.
- Conduct, annually, a Quality Assurance and Improvement Program (QAIP) and participate in comprehensive external peer reviews.
- Conduct economy and efficiency audits and program results audits as directed by the TxDMV Board.
- Serve as a contact for fraud, waste and abuse elimination activities and investigating any reported cases.
- Notify the TxDMV Board and management of the results for any fraud, waste, and abuse elimination activities or investigations.
- Review State Auditor's Office Hotline complaints, taking appropriate action, and reporting out results.
- Carry out advisory services as may be requested by the TxDMV Board that are not prohibited by statute or professional standards.
- Carry out any advisory services as may be requested by management that are not prohibited by statute or professional standards and for which resources are available

as determined by the Internal Audit Director.

**TxDMV management** is responsible for the following activities:

- Establishing and maintaining effective controls to ensure that goals and objectives are met, services are provided effectively, and assets are safeguarded
- Providing information to internal audit as requested
- Maintaining a process to ensure timely management responses and that appropriate action is taken on audit recommendations
- Informing the Internal Audit Director of reviews, evaluations, assessments, audits, or inspections scheduled by local, state, or national agencies and/or external consultants or auditors evaluating programs or controls

### Quality Assurance and Improvement Program

The Internal Audit Division will maintain a quality assurance and improvement program that covers all aspects of the Internal Audit Division. The program will include an evaluation of the Internal Audit Division's conformance with audit standards on an annual basis. The program will also assess the efficiency and effectiveness of the Internal Audit Division and identify opportunities for improvement, including reporting on key performance indicators. The Internal Audit Director will communicate to TxDMV executive management and the TxDMV Board on the Internal Audit Division's quality assurance and improvement program, including results of internal assessments (both ongoing and periodic) on an annual basis and external assessments conducted at least once every three years by a qualified, independent assessor or assessment team from outside TxDMV.

### APPROVAL

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Whitney H. Brewster  
Executive Director

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Sandra Menjivar-Suddeath, CIA, CISA, CGAP  
Internal Audit Director

This charter is approved by the Board of the Texas Department of Motor Vehicles on October 9, 2018.

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Raymond Palacios, Jr., Chairman  
Board of Texas Department  
of Motor Vehicles

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Luanne Caraway, Chair  
Finance and Audit Committee  
Board of Texas Department of Motor  
Vehicles



## Internal Audit Charter

### INTRODUCTION

#### Introduction

This charter sets forth the mission, purpose, authority, and responsibility of the internal audit activity (i.e., Internal Audit Division) at the Texas Department of Motor Vehicles (TxDMV). The charter establishes the ~~internal audit activity~~Internal Audit Division's position within the TxDMV; authorizes access to records, personnel, and physical properties needed to conduct engagements; and defines the scope of the internal audit activities. The Internal Audit Division helps enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight. The Internal Audit Division also helps TxDMV accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management, and control processes.

~~Audit Standards~~Internal auditing is an independent and objective assurance and consulting activity that is guided by a philosophy of adding value to improve the operations of the TxDMV. It assists the TxDMV in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of the organization's governance, risk management, and internal control processes.

The Internal Audit Division will govern itself by adherence to the mandatory elements of The Institute of Internal Auditors' International Professional Practices Framework, including the Core Principles for the Professional Practice of Internal Auditing, the Code of Ethics, the International Standards for the Professional Practice of Internal Auditing, and the Definition of Internal Auditing. Internal Audit will also follow ~~(1) the Generally Accepted Government Auditing Standards (GAGAS) as promulgated by the U.S. Government Accountability Office (GAO) and (2) the International Standards for the Professional Practice of Internal Auditing, the Code of Ethics, and the Core Principles for the Professional Practice of Internal Auditing as prescribed by the Institute of Internal Auditors (IIA).~~ The Internal Audit Director will report annually to TxDMV executive management and the TxDMV Board regarding the Internal Audit Division's conformance to the auditing standards.

In addition, internal audit employees will adhere to the TxDMV's policies and procedures and the ~~internal audit activity~~Internal Audit Division's standard operating procedures manual.

## MISSION

### Vision, Mission, and Goals

#### Vision

To be a future focused internal audit function protecting and serving the Department and its customers.

#### Mission

To identify emerging strategic risks, support adaptability in an evolving environment, and foster trusted relationships and an ethical environment.

#### Goals

The Internal Audit Division will use a proactive future-based approach to provide opinions on industry risks, current events, and the anticipated impacts to the Department through audits and advisory services. The Internal Audit Division will also strategically assess its effectiveness and progressively improve roles through actively engaging in outreach and providing opportunities for feedback. In addition, the Internal Audit Division will conduct informational campaigns<sup>1</sup> and investigate internal fraud, waste, and abuse allegations. The mission of the Internal Audit Division is to be a value-added, technologically advanced internal audit unit that identifies, addresses, and helps mitigate high and emerging information technology, financial, contracting, and operational risks that impact the TxDMV's service to the public and achievement of its vision, mission, and goals.

## PURPOSE Purpose

The Internal Audit Division provides assurance services to the TxDMV Board by conducting ~~periodic~~ audits of the Department's functions, operations, and information systems. Assurance services may include financial audits, compliance audits, economy and efficiency audits, effectiveness audits, and investigations. The Internal Audit Division also offers advisory services, the nature and scope of which may be agreed upon with TxDMV executive management or the Board. An advisory service is intended to add value and improve agency operations and may include, but are not limited to, advice and counsel, facilitation, and training. In addition, the Division will ~~assist in the investigation~~ investigate ~~self-~~suspected internal fraudulent, waste, or abuse ~~activities~~ allegations as necessary.

## AUTHORITY

### Authority

The ~~internal audit activity~~ Internal Audit Division, with strict accountability for confidentiality and safeguarding records and information, is authorized full, free, and

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<sup>1</sup> Informational campaigns can include providing training and information on detecting and defining fraud, waste, and abuse

unrestricted access to ~~any and all~~ of TxDMV records, physical properties, and personnel pertinent to carrying out any engagement. All employees are expected to assist the ~~internal audit activity~~ Internal Audit Division in fulfilling its roles and responsibilities. The ~~internal audit activity~~ Internal Audit Division will also have free and unrestricted access to the ~~Board~~ TxDMV Board and its members and any TxDMV related records they possess.

The Internal Audit Director is authorized to do the following:

- Access (unrestricted), in the performance of authorized audits and other engagements and with strict accountability for safekeeping and confidentiality, ~~have unrestricted access~~ to all TxDMV activities, records, manual and automated systems, properties, and personnel.
- Audit or review any function, activity, or unit of the TxDMV, including vendors, contractors, and subcontractors (to the extent as related to the vendor/contractor/subcontractor deliverables and/or statements of work in applicable TxDMV contracts).
- Communicate and interact directly with the ~~Board~~ TxDMV Board and present any matter that may warrant immediate attention or action.
- Have direct access to the TxDMV Executive Director and present any matter that may warrant immediate attention or action. ~~The Board will also be notified immediately.~~
- Allocate resources, set frequencies, select subjects, determine scopes of work, and apply the techniques required to accomplish the audit objectives, and issue reports.
- Obtain the necessary assistance of personnel in TxDMV units, as well as other specialized services from within or outside of TxDMV that the Internal Audit Director engages for the purpose of consulting with internal audit or providing assurance services.

The Internal Audit ~~Director~~ Division is not authorized to complete the following:

- Perform any operational duties for TxDMV.
- Initiate or approve financial transactions external to the internal audit function.
- Direct the activities of any TxDMV employee not employed by the ~~internal audit activity~~ Internal Audit Division, except to the extent such employees have been assigned to the internal ~~audit~~ function or to otherwise assist the Internal Audit Director.

## ~~INDEPENDENCE AND OBJECTIVITY~~ Independence and Objectivity

To assure the independence of the internal audit function, the Internal Audit Director reports functionally to the ~~Board~~TxDMV Board and its Finance and Audit Committee and administratively to the Executive Director.

The ~~internal audit activity~~Internal Audit Division will remain free from control by TxDMV employees, including matters of audit selection, scope, procedures, frequency, timing, or report content to permit maintenance of an independent and objective state of mind. The Internal Audit Division will also remain free from all restrictions that threaten the ability of internal auditors to carry out their responsibilities in an unbiased manner.

~~Internal auditors~~The Internal Audit Division and its staff will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined. Internal auditors will make a balanced assessment of all relevant circumstances and not be influenced by their own interests or by others in forming judgments.

The Internal Audit Division and its staff ~~Internal auditors~~ will have no direct operational responsibility or authority over any of the activities audited. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity related to non-audit functions that may impair internal auditor's independence. Internal auditor will not assess specific operations for which they had responsibility within the previous year.

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The Internal Audit Division and its staff will conduct the following:

- Disclose any impairment of independence or objectivity, in fact or appearance, to appropriate parties.
- Exhibit professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined.
- Take necessary precautions to avoid being unduly influenced by their own interests or by others in forming judgments.
- Establish safeguards to limit impairments to independence or objectivity if the Internal Audit Director has or is expected to have roles and/or responsibilities that fall outside of internal auditing.

The Internal Audit Director will confirm to the TxDMV Board at least annually, the organizational independence of the Internal Audit Division.

The Internal Audit Director will disclose to the TxDMV Board or the Finance & Audit Committee any interference and related implications in determining the scope of internal auditing, performing work, and/or communicating results.

~~Internal auditors will exhibit the highest level of professional objectivity in gathering,~~

~~evaluating, and communicating information about the activity or process being examined. Internal auditors will make a balanced assessment of all relevant circumstances and not be influenced by their own interests or by others in forming judgments.~~

## Scope

The scope of Internal Audit Division encompasses, but is not limited to, objective examinations of evidence for the purpose of providing independent assessments to the TxDMV Board, management, and outside parties on the adequacy and effectiveness of governance, risk management, and control processes for TxDMV and fraud, waste, and abuse activities. Internal audit assessments include evaluating the following:

- Risks relating to the achievement of TxDMV's strategic objectives are appropriately identified and managed.
- Actions of TxDMV staff and contractors follow TxDMV's policies, procedures, and applicable laws, regulations, and governance standards.
- Results of operations or programs are consistent with established goals and objectives.
- Operations or programs are being carried out effectively and efficiently.
- Information and the means used to identify, measure, analyze, classify, and report such information are reliable and have integrity.
- Resources and assets are acquired economically, used efficiently, and protected adequately.
- Established processes and systems enable compliance with the policies, procedures, laws, and regulations that could significantly impact TxDMV
- Fraud, waste, and abuse has occurred.

The Internal Audit Director will report periodically to TxDMV executive management and the TxDMV Board regarding:

- The Internal Audit Division's purpose, authority, and responsibility
- The Internal Audit Division's plan and performance relative to its plan
- The Internal Audit Division's conformance with audit standards
- Significant risk exposures and control issues, including fraud, waste, and abuse risks, governance issues, and other matters requiring the attention of, or requested by, the TxDMV Board
- Results of audit engagements or other activities
- Resource requirements
- Any risk accepted that may be unacceptable

The Internal Audit Director will also coordinate activities, where possible, and considers relying upon the work of other internal and external assurance and consulting service providers as needed. Opportunities for improving the efficiency of governance, risk management, and control processes may be identified during engagements. These opportunities will be communicated to the appropriate level of management.

~~The Internal Audit Director will confirm to the board, at least annually, the organizational independence of the internal audit activity.~~

### Responsibilities

## **RESPONSIBILITIES**

The ~~Board~~TxDMV Board will perform the following duties:

- Approve the internal audit charter.
- Approve the risk-based internal audit plan.
- Approve the annual internal audit budget and resource plan.
- Receive communications from the Internal Audit Director on the ~~internal audit activity~~Internal Audit Division's performance relative to ~~the~~its plan and other matters.
- Approve decisions regarding the appointment and removal of the Internal Audit Director.
- Provide an annual performance evaluation of the Internal Audit Director.
- Approve the remuneration of the Internal Audit Director.
- Review the resources dedicated to the internal audit program and determine if adequate resources exist to ensure that risks identified in the annual risk assessment are adequately covered within a reasonable time frame.
- Make appropriate inquiries of management and the Internal Audit Director to determine whether there is inappropriate scope or resource limitation.

The **Internal Audit Director** is ~~responsible for~~will performing the following duties:

- Submit, at least annually, a risk-based internal audit plan for review and approval.
- Communicate the impact of resource limitations on the internal audit plan.
- Review and adjust the internal audit plan, as necessary, in response to changes in TxDMV's business, risks, operations, programs, systems, and controls.
- Communicate any significant interim changes to the internal audit plan to the TxDMV Board and executive management.
- Ensure each engagement of the internal audit plan is executed, including the establishment of objectives and scope, the assignment of appropriate and adequately supervised resources, the documentation of work programs and testing results, and the communication of engagement results with applicable conclusions

and recommendations to appropriate parties.

- Follow up on engagement results and management action plans, and reporting periodically any corrective actions not effectively implemented.
- Ensure the principles of integrity, objectivity, confidentiality, and competency are applied and upheld.
- Ensure the Internal Audit Division collectively possesses or obtains the knowledge, skills, and other competencies needed to meet the requirements of the internal audit charter.
- Ensure trends and emerging issues that could impact TxDMV are considered and communicated as appropriate.
- Ensure emerging trends and successful practices in internal auditing are considered.
- Establish and ensure adherence to policies and procedures designed to guide the Internal Audit Division.
- Ensure conformance of the Internal Audit Division with audit standards.
- Acting as agency liaison for all external auditors and monitors.
- ~~• Developing a risk based annual audit plan for review and approval by the Board that identifies the engagements to be conducted during the fiscal year.~~
- ~~• Conducting engagements specified in the annual audit plan, including follow-up reviews of prior recommendations and documenting deviations from the plan.~~
- ~~• Maintaining a professional audit staff with sufficient knowledge, skills, experience, and professional certification to meet the requirements of this charter.~~
- Establishing a quality assurance program by which the Internal Auditor assures the BoardTxDMV Board that operations of internal auditing activities are acceptable.
- Preparing final reports of findings and recommendations for review by the TxDMV Executive Director, the TxDMV BoardBoard, and subsequent distribution to the Office of the Governor, Legislative Budget BoardTxDMV Board, Sunset Advisory Commission, and State Auditor's Office as specified by the Texas Internal Auditing Act.
- ~~• Reporting and verifying on the implementation status of recommendations from internal and external audits, reviews, assessments, and advisory services.~~
- ~~Preparing~~ Prepare an annual report for review by the BoardTxDMV Board and submission pursuant to the requirements of the Act.
- Conducting, ~~an annual~~ annually, a Quality Assurance and Improvement Program (QAIP) and periodically participating in comprehensive external peer reviews.
- ~~• Preparing for a comprehensive external peer review every three years.~~
- Conducting economy and efficiency audits and program results audits as directed by the BoardTxDMV Board.
- Serving as a contact for fraud, waste and abuse elimination activities and investigating any reported cases.

- Notifying the ~~Board~~ TxDMV Board and management of the results for any fraud, waste, and abuse elimination activities or investigations.
- Reviewing State Auditor's Office Hotline complaints, taking appropriate action, and reporting out results.
- Carrying out advisory services as may be requested by the ~~Board~~ TxDMV Board that are not prohibited by statute or professional standards.
- Carrying out any advisory services as may be requested by management that are not prohibited by statute or professional standards and for which resources are available as determined by the Internal Audit Director.

**TxDMV management** is responsible for the following activities:

- Establishing and maintaining effective controls to ensure that goals and objectives are met, services are provided effectively, and assets are safeguarded.
- Providing information to internal audit as requested.
- Maintaining a process to ensure timely management responses and that appropriate action is taken on audit recommendations.
- Informing the Internal Audit Director of reviews, evaluations, assessments, audits, or inspections scheduled by local, state, or national agencies and/or external consultants or auditors evaluating programs or controls.

### Quality Assurance and Improvement Program

The Internal Audit Division will maintain a quality assurance and improvement program that covers all aspects of the Internal Audit Division. The program will include an evaluation of the Internal Audit Division's conformance with audit standards on an annual basis. The program will also assess the efficiency and effectiveness of the Internal Audit Division and identify opportunities for improvement, including reporting on key performance indicators. The Internal Audit Director will communicate to TxDMV executive management and the TxDMV Board on the Internal Audit Division's quality assurance and improvement program, including results of internal assessments (both ongoing and periodic) on an annual basis and external assessments conducted at least once every three years by a qualified, independent assessor or assessment team from outside TxDMV.

### APPROVAL

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Whitney H. Brewster  
Executive Director

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Sandra Menjivar-Suddeath, CIA, CISA, CGAP  
Internal Audit Director

This charter is approved by the Board of the Texas Department of Motor Vehicles on ~~November 3, 2016~~ October 9, 2018.

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Raymond Palacios, Jr., Chairman  
~~TxDMV~~ Board of Texas Department  
of Motor Vehicles

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Luanne Caraway, Chair  
Finance and Audit Committee  
~~TxDMV~~ Board of Texas Department of Motor  
Vehicles

DATE: October 04, 2018  
Action Requested: BRIEFING

To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Sandra Menjivar-Suddeath, Internal Audit Director  
Agenda Item: 11B  
Subject: Internal Audit Division Status Update

### RECOMMENDATION

None.

### PURPOSE AND EXECUTIVE SUMMARY

The status update provides information on current Internal Audit Division (IAD) activities. The October 2018 update contains the fiscal year (FY) 2019 Audit Plan status.

### FINANCIAL IMPACT

None.

### BACKGROUND AND DISCUSSION

At each board meeting, the IAD provides a status update on current activities.

#### FY 2019 Audit Plan Status

The IAD is currently working on three internal engagements and two completed engagements.

- FY 2018 Annual Audit Activities Report (Completed)
  - **Objective:** To summarize internal audit activities conducted in FY 2018.
- Quality Assurance and Improvement Program (Completed)
  - **Objective:** To assess if the IAD is meeting audit standards and to provide information on the division's performance.
- Lemon Law Investigation and Resolution Process (Planning)
  - **Objective:** To determine whether the Lemon Law process provides equitable and objective resolution.
- Employee Classification and Hiring (Planning)
  - **Objective:** To determine whether the hiring process is sufficiently agile to address current and emerging staffing needs.
- FY 2018 Internal Audit Follow-Up (Fieldwork)
  - **Objective:** To verify if outstanding audit recommendations have been fully implemented.
  - **Fourth Quarter Results:** The IAD is reporting on the implementation status of 8 internal audit recommendations due in the fourth quarter of FY 2018. The TxDMV implemented 6 (75%) and started 2 (25%) internal audit recommendations.

In addition, the audit status update includes information on three external engagements:

- the Texas Comptroller of Public Accounts post-payment audit of the TxDMV (Completed)
- the State Auditor's Office audit of contract management at the TxDMV (Fieldwork)
- the U.S. Federal Highway Administration review of the TxDMV Motor Carrier Division's compliance with the Heavy Vehicle Use Tax (Pending)
- the State Office of Risk Management's Field Visit to the Houston Regional Office (Pending)

## Internal Audit Division Status Update

### Fiscal Year (FY) 2019 Audit Plan Status

Engagement	Description	Status
<b>FY 2018 Annual Audit Activities Report</b>	The required report summarizes the internal audit activities conducted in FY2018.	<i>Completed</i> Report attached.
<b>Quality Assurance and Improvement Program</b>	To assess if the Internal Audit Division is meeting auditing standards and provide information on the division's performance	<i>Completed</i> Report attached.
<b>Lemon Law Investigation and Resolution Process</b>	An audit to determine whether the lemon law process provides equitable and objective resolution.	<i>Planning</i> Anticipated release date: January 2019
<b>Employee Classification and Hiring</b>	An audit to determine whether the hiring process is sufficiently agile to address current and emerging staffing needs.	<i>Planning</i> Anticipated release date: January 2019
<b>FY 2019 Internal Audit Follow-Up</b>	This project verifies if outstanding audit recommendations have been fully implemented. Currently, the IAD reviewed internal recommendations that had a completion date or that a division submitted an implementation action between September 1 – December 31, 2018	<i>Fieldwork</i> FY2018, Fourth Quarter memo attached. Anticipated release date: August 2019

### External Coordination

- The U.S. Federal Highway Administration will conduct a review of the Motor Carrier Division to determine compliance with the Heavy Vehicle Use Tax during November 2018. The engagement letter is attached.
- The State Auditor's Office continues to conduct an audit on contract management. The anticipated release date is between December 2018 and February 2019.
- The Texas Comptroller of Public Accounts released its post-payment audit on the Department on August 24, 2018.
- The State Office of Risk Management will be conducting a Field Office visit at the Houston Regional Office on October 20, 2018.



Texas Department  
*of* Motor Vehicles  
HELPING TEXANS GO. HELPING TEXAS GROW.

Fiscal Year 2018 Annual Audit Activities  
Report  
19-01

Internal Audit Division  
September 2018



## Fiscal Year 2018 Annual Audit Activities, 19-01

### Executive Summary

#### BACKGROUND

On an annual basis, the Internal Audit Division (IAD) submits its internal audit report to statutorily required parties. The parties that receive a copy of this report include the Sunset Commission, State Auditor's Office, Legislative Budget Board, and the Governor's Office. In addition, the report is posted on the Texas Department of Motor Vehicles (TxDMV) website.

The report provides information on the assurance (audit) services, consulting (advisory) services, and other activities that were conducted in fiscal year 2018.

The report is developed using the guidelines set forth by the State Auditor's Office.

#### RESULTS

In fiscal year (FY) 2018, the IAD conducted 12 engagements.

The FY 2019 audit plan, which was approved by the TxDMV Board on August 16, 2018, consists of several items including 10 engagements, other internal audit duties, and 5 contingency audits. These items listed in the audit plan were identified using a risk-based methodology and cover risk related to expenditure transfers, capital budget controls, other limitations or restrictions in the General Appropriation Act, contract management, and information technology risks.

As required in the guidelines set forth by the State Auditor's Office, this report includes information on the external reviews coordinated by the IAD as well as a brief description of actions taken by TxDMV to comply with the fraud reporting and investigation coordination requirements.

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## Compliance with Texas Government Code Section 2102.015

The Internal Auditing Act, Texas Government Code §2102.015 requires that within 30 days of approval, an entity should post its audit plan and internal audit annual report on its internet web site. The Texas Department of Motor Vehicles (TxDMV) Board approved the *Fiscal Year 2019 Internal Audit Plan* on August 16, 2018, and the TxDMV web master posted the plan to the website after that. Similarly, the TxDMV Board approved the *Fiscal Year 2017 Annual Internal Audit Report* on October 4, 2018, and the TxDMV web master will post the report on the TxDMV website after the Board approval. These reports may be found at <http://www.txdmv.gov/reports-and-data>.

### Fiscal Year 2018 Internal Audit Plan Summary

Government Code §2102.015 also requires an entity to post a summary of any concerns resulting from the audit plan or annual report and actions taken to address those issues. To address these requirements, the Internal Audit Division (IAD) summarized fiscal year (FY) 2018 audits results in table 1 (FY 2018 Audit Summary). In FY 2018, the IAD completed 10 engagements. The 10 engagements conducted by IAD included 7 audit engagements, 2 advisory service engagements, and 1 follow-up engagement.

Table 1. FY 2018 Audit Summary

Audit Number and Name	Summary
<b>18-02 TxDMV Fund Tables and Process &amp; Handling Fees</b>	<p>The audit objective was to determine whether appropriate revenues are deposited to the TxDMV Fund and whether appropriate fees are distributed to counties.</p> <p>The TxDMV has processes to consistently monitor revenue account codes in the TxDMV Fund. Those processes ensure that appropriate fees are deposited to the TxDMV fund. Those processes, however, are not formally documented. In addition, the Department does not monitor changes made to data tables after those changes are in the production environment. The Department does, however, test those changes in the testing environment. Data table changes that are not reviewed in production could result in revenue being distributed to incorrect account codes or funds.</p>
<b>18-03 Public Information Request Processes (Open Records)</b>	<p>The audit objectives were to determine if public information requests (PIR) were handled consistently throughout the Department, were assessed at appropriate cost, and were handled in accordance with state laws.</p> <p>TxDmv's FOIAXpress (FX) system provides the public with a central online portal to submit all PIR to the Department and a tracking number to follow the progress of the PIR being processed. The</p>

Audit Number and Name	Summary
	<p>TxDMV's Office of General Counsel (OGC) has provided training to the Department's Public Information Coordinators (PIC) outlining their responsibilities and the Department's obligations when receiving a public information request, statutory requirements and timelines, and how to use the FX system. The TxDMV complies with the Texas Public Information Act requirements. In the 44 PIRs tested, response time to the requestor was within the required 10 business days, and fees to the requestor were applied or waived in accordance with requirements.</p> <p>The TxDMV could streamline the process by consolidating additional PIR processes and improve guidance to divisions on PIR processing practices. Currently, there are multiple PIR intake points in the Department, creating PIR reporting errors due to redundant data entry. In addition, the TxDMV applies different internal PIR response practices across the Department.</p>
<p><b>18-04 Fraud, Waste, and Abuse Risk Assessment</b></p>	<p>In FY 2018, TxDMV requested the IAD conduct a fraud, waste, and abuse (FWA) risk assessment. The IAD agreed and began a year-long advisory service engagement. The objectives of the advisory service were the following:</p> <ul style="list-style-type: none"> <li>• To identify FWA risks throughout the Department;</li> <li>• To identify controls that mitigate the identified FWA risks;</li> <li>• To rank the identified FWA risks and controls based on agreed-upon criteria; and</li> <li>• To assist divisions in identifying mitigation strategies for FWA risks that have not been sufficiently mitigated.</li> </ul> <p>Using the guidance approved by TxDMV executive management, the IAD worked with 13 divisions to obtain and identify fraud, waste, and abuse risks and controls.</p>
<p><b>18-05 Inventory</b></p>	<p>The audit objectives were to determine whether adequate processes exist to accurately and completely track and safeguard assets and to determine whether appropriate access controls exist to safeguard assets. In addition, the audit determined whether the Department is in compliance with statutory inventory requirements.</p> <p>The TxDMV has processes to ensure assets are managed as required and has taken steps to better protect inventory. In FY 2017, the Department only had 29 of its 9,738 controlled assets (0.3 %) considered missing, stolen, or damaged. In contrast, controlled assets have significantly reduced since FY2015 when there were 442 controlled assets considered missing, stolen, or damaged.</p>

Audit Number and Name	Summary
	<p>Although the Department had processes to ensure assets have been tracked and safeguarded, IAD identified improvements areas. The IAD made fourteen audit recommendations to improve the tracking and safeguarding of controlled and allocated asset inventory.</p>
<p><b>18-06 Travel and Training Policies and Practices</b></p>	<p>The audit objectives were to determine if training and travel requests and reimbursements have the appropriate approvals and justifications and if a process exists to ensure travel and training expenses were appropriate and achieved the needs of the Department. In addition, the audit evaluated how the TxDMV's handling of board member travel compares with other state agencies.</p> <p>TxDMV board travel practices are in compliance with the Texas Government Code, Comptroller rules, the General Appropriations Act, and are like other state agencies' reimbursement practices for board and commission members' travel expenses. The TxDMV had developed processes to ensure training related requests are justified and expenses are appropriate. Similarly, process have been developed to ensure travel expenses were reviewed and verified prior to reimbursement. Out-of-state travel is authorized by the executive director and the division director prior to the travel.</p> <p>However, the authorization for in-state travel authorizations is informal. The Department has not sufficiently established procedures to ensure in-state travel authorization is fully documented and retained by divisions. In addition, there are unclear guidelines for what documentation needs to be included when submitting out-of-state travel plans for authorization. The Department may have insufficient support demonstrating it authorized in-state travel with clear business justification prior to the trip. In addition, staff may not have sufficient supervisory authorization for travel prior to the trip.</p>
<p><b>18-07 Social Media</b></p>	<p>The audit objective was to determine whether the Department has established a social media governance structure designed to protect the Department's brand.</p> <p>TxDMV uses social media as a cost-effective method of reaching customers, reaching, 36,391 unique users at an average cost to the Department of \$0.16 per user between October 2017 to February 2018. However, the Department has not developed an agency-wide social media strategy to align the use of social media throughout the various divisions. Each division has their own security and privacy configurations for their social media pages, and has different</p>

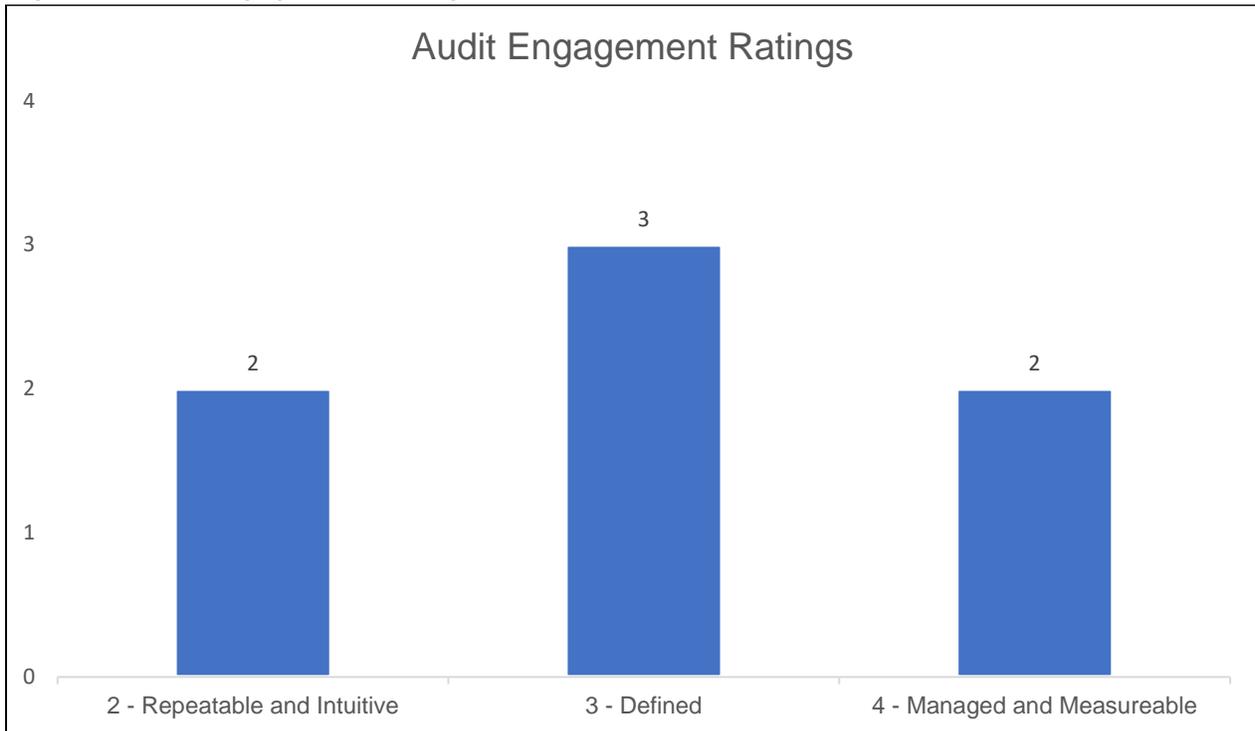
Audit Number and Name	Summary
	<p>expectations on how to manage customer comments based on business objectives rather than Department strategy.</p> <p>A central process for reviewing social media platform terms and conditions and their associated risk to the Department, and approving and tracking all official social media accounts has not been created. The decision to register new official TxDMV account is made by each division without required review from TxDMV Office of General Counsel, Information Security Section, or the Executive Office.</p>
<b>18-08 Payment Card Industry (PCI) Compliance</b>	<p>The audit objectives were to determine the whether TxDMV is compliant with policy requirements of PCI Requirement 12; and, whether previously issued PCI audit recommendations have been fully remediated. The IAD issued one audit recommendation to address issues identified in the audit.</p>
<b>18-09 eLICENSING</b>	<p>The objectives of the audit were to determine how eLICENSING has affected service for internal and external customers of licensing information and to review the adequacy of access controls within eLICENSING.</p> <p>TxDMV's implementation of the eLICENSING system has reduced risk by reducing manual processes and hardcopy documentation in the motor vehicle licensing process. However, IAD identified improvement areas related to the Enforcement function of eLICENSING and access management.</p>
<b>18-10 Texas Commission on Law Enforcement (TCOLE) Compliance</b>	<p>The IAD was asked to conduct an advisory service to review the TCOLE training compliance. The advisory service deliverables included a determination of whether the TxDMV is compliant with TCOLE training requirements, an identification of where improvements may be needed to follow TCOLE training requirements, and an evaluation on whether the reporting structure has been implemented to sufficiently monitor TCOLE compliance.</p> <p>IAD found that TxDMV is not in full compliance with TCOLE training requirements, although a concerted effort has been made to be compliant. The IAD reviewed and concluded on six TCOLE training compliance requirements.</p>
<b>18-11 Fiscal Year 2018 Internal Audit Follow-Up</b>	<p>The follow-up objective was to determine and verify the implementation status of internal audit and external audit recommendations issued.</p>

Audit Number and Name	Summary
	<p>The Texas Department of Motor Vehicles (TxDMV) has taken an active approach to implementing internal audit recommendations, which resulted in all internal recommendations being started and almost all being fully implemented. IAD verified that TxDMV fully implemented 34 of 36 internal audit recommendations, with two recommendations started but not fully implemented. Both started audit recommendations have estimated completion dates before FY 2020. Similarly, TxDMV has taken an active approach to implementing external audit recommendations and has implemented all 60 external audit recommendations.</p>

### Audit Engagement Ratings

For any audit engagement, the IAD rates the engagement using a maturity rating system<sup>1</sup>. For the seven audit engagements, the following ratings were given (see Figure 1):

Figure 1. Audit Engagement Ratings



<sup>1</sup> Audit Engagement Maturity Ratings and definitions are listed in Appendix 1.

## Internal Audit Plan for Fiscal Year 2018

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The status of the FY 2018 audit plan engagements is outlined below in Table 2.

Table 2. FY 2018 Internal Audit Plan Status

Audit Number and Name	Release Date
18-01 Fiscal Year 2017 Annual Internal Audit Report	October 2017
18-02 TxDMV Fund Tables and Process & Handling Fees Audit	February 2018
18-03 Public Information Request Processes (Open Records) Audit	February 2018
18-04 Fraud, Waste, and Abuse Risk Assessment Advisory Service	August 2018
18-05 Inventory Audit	August 2018
18-06 Travel and Training Policies and Practices Audit	May 2018
18-07 Social Media Audit	June 2018
18-08 Payment Card Industry (PCI) Compliance Audit	September 2018
18-10 eLICENSING Audit	September 2018
18-10 TCOLE Compliance Advisory Service	May 2018
18-11 Fiscal Year 2018 Internal Audit Follow-Up	August 2018
18-12 Fiscal Year 2019 Internal Audit Plan	August 2018

### Internal Audit Plan Deviation

No deviations were made to the FY 2018 Annual Audit Plan.

## Consulting Services and Nonaudit Services Completed

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### Consulting Services

The IAD conducted two advisory services, or consulting services, during FY 2018. The advisory services related to facilitating a fraud, waste, and abuse risk assessment and reviewing TCOLE compliance.

#### Fraud, Waste, and Abuse Risk Assessment

Through FY 2018, IAD conducted a year-long advisory service engagement to identify and rank Fraud, Waste, and Abuse risks and controls. The objectives of the advisory service were the following:

- To identify FWA risks throughout the Department;
- To identify controls that mitigate the identified FWA risks;
- To rank the identified FWA risks and controls based on agreed-upon criteria; and
- To assist divisions in identifying mitigation strategies for FWA risks that have not been sufficiently mitigated.

Using the guidance approved by TxDMV executive management, the IAD worked with 13 divisions to obtain and identify fraud, waste, and abuse risks and controls. The IAD identified several fraud, waste, and abuse risks and controls and worked with management on any risks that needed more mitigation.

#### TCOLE Compliance

The IAD was asked to conduct an advisory service to review the TCOLE training compliance. The advisory service deliverables included a determination of whether the TxDMV is compliant with TCOLE training requirements, an identification of where improvements may be needed to follow TCOLE training requirements, and an evaluation on whether the reporting structure has been implemented to sufficiently monitor TCOLE compliance.

IAD found that TxDMV is not in full compliance with TCOLE training requirements, although a concerted effort has been made to be compliant. The IAD reviewed and concluded on the following TCOLE training compliance requirements:

- Training Coordinator – The TxDMV is in compliance with the TCOLE training coordinator requirements.
- Training Provider Eligibility – The TxDMV is in compliance with training provider eligibility requirements. However, advisory board eligibility forms were not always completed prior to appointment.
- Instructor Qualification – The TxDMV is not in full compliance with instructor qualification requirements. Of the 33 instructor qualifications reviewed, only 11(33%) had required biographies available for review.

- Training Course – The TxDMV is not in full compliance with all training course requirements because the TxDMV did not always submit training reports within 30 days as required.
- Training Course File – The TxDMV was mostly in compliance with the training course file requirements. Of the 15 files reviewed, only one file was missing a course evaluation.
- Training System Access – The TxDMV was in compliance with the completion of Non-Disclosure and User Verification forms requirement. However, three of the six TxDMV staff members who have access to TCLEDDS are not actively involved in the administration of the TCOLE training program.

TxDmv should consider developing an annual strategic training plan for the TCOLE trainings and fully developing and documenting policies and procedure. The policies and procedures should also define the responsibilities of the training coordinator to ensure compliance with the TCOLE training requirements.

## External Quality Assurance Review

IAD underwent an external quality assurance review (peer review) in May 2018. Representatives of the State Agency Internal Audit Forum performed the peer review in accordance with current peer review policies and procedures. On May 2018, IAD received a rating of “pass” out of three possible ratings: pass, pass with deficiencies, or fail (see Figure 2).

Figure 2. Peer Review Certificate



The report noted one opportunity for improvement; the opportunity and the Internal Audit Division Director’s response is as follows:

Opportunity for Improvement:

*The Internal Audit Division should consider performing a periodic project related to the agency's ethics-related objectives, programs, and activities.*

Director's Response:

*The Internal Audit Division (IAD) will consider performing a project related to the agency's ethics-related objectives, programs, and activities. The Internal Audit Division is currently*

conducting a fraud, waste, and abuse risk assessment for the Department to determine if we have sufficient processes to mitigate current fraud, waste, and abuse risks. In addition, the Internal Audit Division plans on periodically performing informational campaigns on ethics for the Department.

Figure 3, Peer Review Opinion, is an excerpt from the TxDMV Internal Audit Division External Quality Assurance Review – May 2018.

Figure 3. Peer Review Opinion

Texas Department of Motor Vehicles Internal Audit Division  
External Quality Assurance Review – May 2018

**Overall Opinion**

Based on the information received and evaluated during this external quality assurance review, it is our opinion that the Texas Department of Motor Vehicles Internal Audit Division receives a rating of **"Pass/Generally Conforms"** and is in compliance with the Institute of Internal Auditors (IIA) *International Standards for the Professional Practice of Internal Auditing* and *Code of Ethics*, the United States Government Accountability Office (GAO) *Government Auditing Standards*, and the Texas Internal Auditing Act (Texas Government Code, Chapter 2102). This opinion, which is the highest of the three possible ratings, means that policies, procedures, and practices are in place to implement the standards and requirements necessary for ensuring the independence, objectivity, and proficiency of the internal audit function.

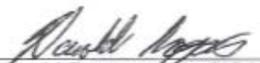
We found that the Internal Audit Division is independent, objective, and able to render impartial and unbiased judgments on the audit work performed. The staff members are qualified, proficient, and knowledgeable in the areas they audit. Individual audit projects are planned using risk assessment techniques; audit conclusions are supported in the working papers; and findings and recommendations are communicated clearly and concisely.

The Internal Audit Division is well managed internally. In addition, the Division has effective relationships with the Board and is well respected and supported by management. Surveys and interviews conducted during the quality assurance review indicate that management considers Internal Audit a useful part of the overall agency operations and finds that the audit process and report recommendations add value and help improve the agency's operations.

The Internal Audit Division has reviewed the results of the peer review team's work and has accepted them to be an accurate representation of the Division's operations.

**Acknowledgements**

We appreciate the courtesy and cooperation extended to us by the Internal Audit Director, Internal Audit Division staff, the Board members, the Executive Director, and the senior managers who participated in the interview process. We thank each person who completed surveys for the quality assurance review. The feedback from the surveys and the interviews provided valuable information regarding the operations of the Internal Audit Division and its relationship with management.

 _____ Harold Rogers, CIA, CISA Special Projects Auditor Texas Workforce Commission SAIAF Peer Review Team Leader	6/1/18 _____ Date	 _____ Patrick McKinney, CIA External Audit & Advisory Services Section Director Texas Department of Transportation SAIAF Peer Review Team Member	6/1/18 _____ Date
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## Internal Audit Plan for Fiscal Year 2019

The TxDMV Board approved the Fiscal Year 2019 Internal Audit Plan on August 16, 2018. The audit plan included 10 engagements, 5 contingency engagements, and other internal audit duties. Table 3 provides information on the ten engagements that will be conducted in FY 2019, including the hours allocated to each engagement, the alignment to the TxDMV strategic goals, the initial contact division (if applicable), the engagement background information, and the preliminary objectives (if applicable).

Table 3. Audit Plan

Engagement Topic	Strategic Goal(s)	Division	Background and Preliminary Objectives
1. Compliance & Investigations Division <b>650 hours</b>	Customer Centric & Performance Driven	Compliance & Investigations Division (CID)	<p><u>Background:</u> In the 85<sup>th</sup> Legislature, TxDMV requested an exceptional item of 13 Full – Time Equivalents (FTEs) with \$1.9 million in funding to address external fraud, waste, and abuse. The exceptional item was approved by the Legislature, which resulted in a new division (CID). CID is responsible for processing complaints and investigating allegations of fraud related to motor vehicle title and registration, providing support for law enforcement, and working on compliance with tax assessor-collectors' offices and Regional Service Centers.</p> <p><u>Preliminary Objectives</u></p> <ul style="list-style-type: none"> <li>• To determine whether CID established appropriate and valid objectives to meet desired outcomes.</li> <li>• To evaluate whether CID structure is sufficient to prevent, detect, and investigate fraud, waste, and abuse.</li> </ul>

Engagement Topic	Strategic Goal(s)	Division	Background and Preliminary Objectives
<p>2. Lemon Law Investigation and Resolution Process <b>500 hours</b></p>	<p>Customer Centric &amp; Performance Driven</p>	<p>Enforcement Division (ENF) &amp; Office of Administrative Hearing (OAH)</p>	<p><u>Background:</u> The Lemon Law resolution process was transferred from the State Office of Administrative Hearings (SOAH) to the Department when HB 1692 (83<sup>rd</sup> Texas Legislature, Reg. Session) passed. As of January 2014, the Office of Administrative Hearings, with help from the Enforcement Division, has been in charge of handling Lemon Law investigations and resolutions.</p> <p><u>Preliminary Objectives</u></p> <ul style="list-style-type: none"> <li>To determine whether the Lemon Law process provides equitable and objective resolution.</li> </ul>
<p>3. Employee Classification &amp; Hiring <b>500 hours</b></p>	<p>Performance Driven</p>	<p>Human Resources Division (HRD)</p>	<p><u>Background:</u> Effective talent management, including hiring staff, is a critical function to ensure the Department is properly staffed. The HRD is responsible for acquiring, developing, and retaining talent to meet the business needs of the Department. For HRD to meet its responsibilities, it works with Department staff to hire for vacant positions and conducts job audits to make sure staff are in the correct position and classification. In FY 2018, it currently takes the Department 84 days to hire an employee, and it takes HRD anywhere from a day to 105 days to process a job audit.</p> <p><u>Preliminary Objectives</u></p> <ul style="list-style-type: none"> <li>To determine whether the hiring process is sufficiently agile to address current and emerging staffing needs.</li> </ul>

Engagement Topic	Strategic Goal(s)	Division	Background and Preliminary Objectives
4. Information Security Risk Management <b>600 hours</b>	Performance Driven	Information Technology Services (ITS) Division	<p><u>Background:</u> Cybersecurity continues to be one of the highest risk areas for any state agency. Cybersecurity requires a process to identify and manage security risks to avoid costly and significant consequences.</p> <p><u>Preliminary Objectives</u></p> <ul style="list-style-type: none"> <li>To determine whether the Department has sufficient processes in place to monitor and identify information security threats.</li> </ul>
5. Payment Card Industry (PCI) Compliance <b>450 hours</b>	Performance Driven	ITS	<p><u>Background:</u> Customers' credit cards are accepted for some of the Department's transactions. To be able to accept credit cards, TxDMV has to attest to the Payment Card Industry (PCI) Security Standards Council that the credit card information obtained from transactions is being safeguarded, and that the Department is meeting the twelve PCI requirements. The requirements range from installing and maintaining a firewall to maintaining an information security policy.</p> <p><u>Preliminary Objectives</u></p> <ul style="list-style-type: none"> <li>To determine whether TxDMV is compliant with certain PCI requirements.</li> </ul>
6. Enterprise Project Management <b>Advisory Service</b> <b>1100 hours</b>	Optimized Services and Innovation	Enterprise Project Management Office (EPMO)	<p><u>Background:</u> EPMO and ITS have completed an organizational assessment that identified significant issues in the process for project planning and management. The assessment is being used to help with organizational change for the project planning and management process. With any organizational change, the changes increase risks to the function that updated roles and responsibilities</p>

Engagement Topic	Strategic Goal(s)	Division	Background and Preliminary Objectives
			<p>will not be fully understood and processes not being as efficient and effective as possible. Organizational changes may also increase risks concerning project assignments, management reporting structures, quality assurance, and overall governance.</p> <p><u>Advisory Service Objectives</u></p> <ul style="list-style-type: none"> <li>• To conduct a facilitated self-assessment to identify risks and controls for the following EP MO processes: <ul style="list-style-type: none"> <li>○ Project Planning and Development,</li> <li>○ Project Quality Assurance,</li> <li>○ Project Governance,</li> <li>○ Contractor and Contract Management, and</li> <li>○ Staff and Project Roles.</li> </ul> </li> </ul>
7. Management or Board Requests <b>650 hours</b>	TBD	TBD	<p><u>Background:</u> Time has been allotted for a special requests or reviews of a new or emerging risk for the Department. This time includes any type of request and may include specific reviews of Regional Service Centers, Driver's Privacy Protection Act, or other items.</p>
8. FY 2019 Internal Audit Follow-Up <b>100 hours</b>	Optimized Services and Innovation, Customer Centric, & Performance Driven	Department-wide	<p><u>Background:</u> This project would verify if outstanding internal and external audit recommendations have been fully implemented. Quarterly reporting and an annual report will be provided.</p>

Engagement Topic	Strategic Goal(s)	Division	Background and Preliminary Objectives
9. FY 2020 Internal Audit Plan <b>100 hours</b>	Optimized Services and Innovation & Customer Centric	Department-wide	<u>Background:</u> The annual audit plan is prepared using risk assessment techniques to identify individual audits to be conducted during the year. The TxDMV Board must review and approve the annual audit plan as required by Government Code.
10. FY 2018 Annual Internal Audit Report <b>30 hours</b>	Not Applicable	Department-wide	<u>Background:</u> A summary of internal audit activities. Government Code requires this annual report be submitted before November 1 to the TxDMV Board, the Governor, the Legislative Budget Board, the State Auditor's Office, and the Sunset Advisory Commission.

## Contingency Audit and Advisory Services

The IAD identified alternate, or contingency, engagements that it can perform. These engagements were identified through the annual risk assessment process and are high risk areas for the Department, but they are not as high risk as the primary engagements identified. Table 4 summarizes the contingency engagement information for FY 2019.

Table 4. Contingency Engagements

Engagement Topic	Strategic Goal(s)	Division	Background
1. Procurement & Contract Management <b>800 hours</b>	Optimized Services and Innovation & Performance Driven	FAS, EPMO	<u>Background:</u> Procurement processes and contracts continue to be an area of focus for the Texas Legislature and external regulators. Recently, there has been a focus on ensuring that contracts are properly procured, reviewed by management, and have oversight by the Board of Directors. As of April 2018, the Department had issued over \$78 million in procurements for FY 2018.

Engagement Topic	Strategic Goal(s)	Division	Background
2. ELinc Application Review <b>600 hours</b>	Optimized Services and Innovation	ITS & Motor Carrier Division	<u>Background:</u> ELinc will allow motor carriers to self-issue operating authority in Texas, which will reduce the approval time.
3. Access Management <b>600 hours</b>	Performance Driven	ITS	<u>Background:</u> Access Management is a pivotal and key component of any information technology system. Ensuring that access is managed properly, to ensure only those employees or staff access only the right data, is needed.
4. ITS Infrastructure <b>800 hours</b>	Optimized Services and Innovation & Performance Driven	ITS	<u>Background:</u> The Department relies on the Texas Data Center Services (DCS) to host and manage its key IT infrastructure, including services. DCS is responsible for ensuring servers are appropriately patched and maintained to reduce the risk of a cyber-attack and keep up with technology changes. Since DCS is a third-party provider, oversight by the Department is key to ensure objectives are met and IT infrastructure is properly maintained.
5. Regional Service Centers <b>800 hours</b>	Customer Centric & Performance Driven	VTR	<u>Background:</u> The Regional Service Centers (RSCs) play an integral role in serving TxDMV customers located throughout the state of Texas. Each RSC has a regional manager that manages the RSC and an assistant chief that oversees the RSC.

## Other Internal Audit Duties

In addition to conducting engagements, the IAD has other duties that it performs each fiscal year. These duties include conducting quality control on issued audit and advisory service reports, working on Anti-Fraud, Waste, and Abuse Items, and providing ad hoc advisory services to the Department. Table 5 summarizes the other Internal Audit duties and the hours allocated to each item. In addition, the table provides information on total budgeted hours for IAD activities, including hours allocated to engagements and to other duties.

Table 5. Internal Audit Duties

Other Internal Audit Duties	
<ol style="list-style-type: none"> <li>1. Coordinating with external auditors and reviewers (50 hours)</li> <li>2. Working on Anti-Fraud, Waste, and Abuse Items (200 hours)</li> <li>3. Conducting an annual Quality Assurance and Improvement Program as required by auditing standards (80 hours)</li> <li>4. Advising the agency's Governance Team and Executive Steering Committees (200 hours)</li> <li>5. Providing ad hoc advisory services or consultations (100 hours)</li> </ol>	
Total Budgeted Hours on Audit and Advisory Service Engagements: 4,700	
Total Budgeted Hours on Other Internal Audit Division Duties: 630	
Total Budgeted Hours for Reports and Division Duties in FY 2019: 5,330	

## Risk Assessment Methodology

The audit plan was developed using a risk-based methodology, which incorporated input from board members, senior management, division management, and risks identified by audit staff through FY 2018 engagements and observations. The Internal Audit Division also analyzed department information and reviewed internal audit and industry publications to identify and rank potential audit topics by risk. Projects' risk rankings were developed using the following factors:

- Revenue or expense impact
- Asset or liability impact
- Operational effectiveness and efficiency impact
- Legal or regulatory impact
- Brand or reputational impact
- Degree of change in the program, function, or process
- Degree of complexity
- Degree of centralization

In total, 100 Department risks were identified through the risk assessment. Each risk was scored using the above factors. The risk scores ranged from zero, which is the lowest risk score, to six, which is the highest risk score. An inherent risk score of four or higher is considered high risk for the Department. Low and medium risk scores are from 0 to 3.99.

## SAO Related Items

The FY 2019 Internal Audit plan includes one contingency audit related to contract management, capital budget controls, and expenditure transfers: Procurement and Contract Management audit.

## External Audit Services Procured in Fiscal Year 2018

TxDMV did not procure any external audit services; however, TxDMV was audited five times in FY 2018. Table 6 provides details on the external audit services.

Table 6. External Audit in FY 2018

External Auditor and Topic	Results
<p>State Office of Risk Management</p> <p>FY 2018 Risk Management Review</p>	<p>State Office of Risk Management (SORM) conducted a Risk Management Program Review (RMPR) of the Texas Department of Motor Vehicles (TxDMV) on November 8, 2017. The consultation was conducted under the authority of Texas Labor Code, Title V, Subtitle A, Chapter 412, and is designed to assist state agencies to develop and implement comprehensive risk management programs that meet Risk Management for Texas State Agencies (RMTSA) guidelines.</p> <p>SORM reviewed processes and found almost all items in compliance. Only one finding was issued related to an electrical panel. An electrical panel in the Camp Hubbard Complex (building 5) was not appropriately labeled. TxDMV corrected the issue at the end of February 2018.</p>
<p>Texas Commission on Law Enforcement</p> <p>2018 Training Program Evaluation Report (TPER)</p>	<p>TxDMV provides training to law enforcement through the Texas Commission on Law Enforcement (TCOLE) training program. TCOLE conducted a review to determine if TxDMV was in compliance with the Commission rules and state law.</p> <p>TCOLE reviewed training records and found that TxDMV was mostly in compliance with the requirement, but found two areas of noncompliance:</p> <ul style="list-style-type: none"> <li>• TxDMV did not consistently submit training rosters within the 30-day period.</li> <li>• TxDMV did not have all required documentation in training course file.</li> </ul> <p>TCOLE recommended TxDMV develop policies and procedure and TxDMV developed policies and procedures by April 2018.</p>

External Auditor and Topic	Results
Texas Department of Public Safety  Criminal Justice Information Services (CJIS) Security Audit	Texas Department of Public Safety (TxDPS) conducted a review of TxDMV compliance with CJIS policies. TxDPS found that TxDMV was mostly compliance, but needed to correct a few issues.  TxDMV corrected all issues in April 2018 and TxDPS provided a notice of compliance.
Sunset Commission  2018 Sunset Commission Staff Report	The Sunset Commission conducted an evaluation on TxDMV to determine if objectives were being met and whether TxDMV needed to continue. Several recommendations were made to address the issues identified.
Texas Comptroller of Public Accounts  Post-Payment Audit	The Texas Comptroller of Public Accounts conducted a post payment audit on TxDMV. The audit found TxDMV was in compliance with applicable state laws for travel, security, internal controls, and fixed asset areas. However, the audit found non-compliance in the procurement and payroll area.



# Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

## Quality Assurance and Improvement Program Report

Internal Audit Division  
September 2018

## Quality Assurance and Improvement Program Executive Summary

### BACKGROUND

The Internal Audit Division (IAD) follows the audit standards prescribed by the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* (IIA Standards), the Definition of Internal Auditing, the Core Principles for the Professional Practice of Internal Auditing and the Code of Ethics; (2) U.S. Government Accountability Office's (GAO) Generally Accepted Auditing Standards (GAGAS); and (3) Texas Internal Auditing Act, Texas Government Code, Chapter 2102 (Act). These audit standards require IAD develop and maintain a Quality Assurance and Improvement Program (QAIP) that includes both internal and external assessments.

Internal assessments are ongoing monitoring of the performance of the internal audit activity, as well as annual self-assessment reviews. The IIA Standards require the results of internal assessments be communicated to the governing board at least annually.

This report provides a summary of fiscal year 2018 Internal Audit Division's activities and compliance with applicable audit standards.

### RESULTS

The IAD complies with the IIA Standards, the Definition of Internal Auditing, the *Core Principles for the Professional Practice of Internal Auditing*, the IIA's *Code of Ethics*, GAGAS, and the Act. One opportunity for improvement was noted in the review.

The opportunity for improvement related to updating the audit charter to clearly state the IAD follows the definition of internal audit and better define IAD's scope. The audit charter has been revised and is pending approval from the TxDMV Board at the October 2018 Board meeting.

In addition, IAD began tracking and measuring its performance through Key Performance Indicators (KPIs) in fiscal year (FY) 2018. In total, IAD has 10 KPIs. IAD measured itself against 8 of those KPIs in FY2018.

The report also provides information on IAD's progress on achieving its desired level in the Capability Model and provides information on fraud, waste, and abuse allegations and dispositions handled by IAD.

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## Background

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The Texas Department of Motor Vehicles (TxDMV) - Internal Audit Division (IAD) follows the audit standards prescribed by the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* (IIA Standards), the Definition of Internal Auditing, the *Core Principles for the Professional Practice of Internal Auditing* and the *Code of Ethics*; (2) U.S. Government Accountability Office's (GAO) *Generally Accepted Auditing Standards* (GAGAS); and (3) Texas Internal Auditing Act, Texas Government Code, Chapter 2102 (Act). These audit standards require IAD develop and maintain a Quality Assurance and Improvement Program (QAIP) that includes both internal and external assessments:

- Internal assessment is ongoing monitoring of the performance of the internal audit activity, as well as annual self-assessment reviews. The IIA Standards require the results of the annual self-assessments be communicated to the governing board at least annually.
- External assessment (Peer Review) is a review of the IAD that is conducted a qualified, knowledgeable Peer Review team. The Peer Review team will determine if the division is in conformance with applicable standards and the external assessment may provide feedback on operational and strategic issues.

## Internal Assessments

The IAD internal assessment includes ongoing monitoring as well as an annual self-assessment. The ongoing monitoring includes a review of all audit documentation, audit recommendations, and reports for each engagement conducted by the IAD in a fiscal year prior to finalizing an engagement file.

The annual self-assessment includes verifying IAD followed all required compliance and performance audit standards. In addition, the IAD provides information on the following:

- Key Performance Indicators (KPIs)
- Institute of Internal Auditors (IIA) – Internal Audit Capability Model for the Public Sector (Capability Model)
- Fraud, waste, and abuse allegations and disposition
- External assessment recommendations progress

## External Assessments

Every three years, the IAD Director begins the process to obtain a Peer Review team. The Peer Review team issues a public report rendering an overall opinion on whether IAD complied with the audit standards and whether QAIP provides reasonable assurance that internal audit complies with applicable professional standards in all material aspects. The IAD received its most recent Peer Review in May 2018.

## **Audit Engagement Team**

The audit was performed by Sandra Menjivar-Suddeath (Internal Audit Director) and reviewed by Jacob Geray (Internal Auditor).

## Internal Assessment Results

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At the end of fiscal year (FY) 2018, the IAD Director conducted a review to determine if the IAD followed all required applicable compliance and performance audit standards. In addition, the IAD Director analyzed data collected throughout the fiscal year to report on the division's KPIs, Capability Model, and fraud, waste, and abuse resolution.

### Overall Conclusion

Based on the review, the IAD complies with the IIA Standards, the definition of internal auditing, the *Core Principles for the Professional Practice of Internal Auditing*, the IIA's *Code of Ethics*, GAGAS, and the Act. One opportunity for improvement was noted in the review. The opportunity for improvement related to updating the audit charter to clearly state the IAD follows the Definition of Internal Auditing and better define IAD's scope. The audit charter has been revised and is pending approval from the TxDMV Board at the October 2018 Board meeting.

In addition, IAD met its Key Performance Indicators and has made progress on achieving the optimized level of the Capability Model.

### Compliance Audit Standards

A review of the IAD's audit charter, standard operating procedures, and engagement control programs was conducted to determine if the IAD followed all compliance audit standards. Compliance standards include the following items:

- **Purpose, Authority, and Responsibility** - The internal audit function must be formally defined in an internal audit charter, consistent with the Mission of Internal Audit and the mandatory elements of the International Professional Practices Framework (the Core Principles for the Professional Practice of Internal Auditing, the Code of Ethics, the Institute of Internal Auditors (IIA) Standards, and the Definition of Internal Auditing).
- **Independence and Objectivity** - The internal audit function must be independent and perform work in an objective manner.
- **Proficiency and Due Professional Care** - Engagements must be performed by staff that are proficient and have due professional care.
- **Quality Assurance and Improvement Program** - A quality assurance and improvement program must be established and must enable an evaluation of the internal audit function's conformance with the audit standards and any applicable other requirements. The program should, also, assess the efficiency and effectiveness of the internal audit function and identify opportunities for improvement for the function.
- **Managing the Internal Audit Activity** - The internal audit function must be effectively managed to ensure it adds value to the organization.

- **Nature of Work** - The internal audit function must evaluate and contribute to the improvement of the organization's governance, risk management, and control processes using a systematic, disciplined, and risk based approach.
- **Monitoring Progress** - A system to monitor the disposition of results must be established, maintained, and communicated.

Based on the review, IAD met all the compliance audit standards; however, one opportunity for improvement was identified. The one opportunity for improvement was related to updating its audit charter to more explicitly discuss the Definition of Internal Auditing and better define the IAD's role. The opportunity for improvement and response is noted below.

### Opportunity for Improvement

The IAD should update its internal audit charter to clearly state the IAD follows the Definition of Internal Auditing and to better explain the IAD's scope. Currently, the audit charter defines internal auditing, as required by the IIA, but the charter does not state the division will follow the definition of internal auditing. In addition, the charter states the IAD's responsibilities but does not define its scope. IAD has already made revision to the audit charter, and it is pending approval from the TxDMV Board. The audit charter approval is on the October 2018 Board meeting.

### Performance Audit Standards

The IAD must also meet performance audit standards. To determine whether performance audit standards were met, the IAD Director selected one completed engagement (TxDMV Fund Audit) and reviewed it. Specifically, the IAD Director verified the IAD complied with the following performance audit standards:

- **Engagement Planning** - A plan must be developed and documented for each engagement.
- **Performing the Engagement** - Internal auditors must identify, analyze, evaluate, and document sufficient information to achieve the engagement's objectives.
- **Communicating Results** - Results from the audit engagements must be communicated to management and those in charge with governance.

Based on audit documentation, the IAD met all performance audit standards. No opportunities for improvements were noted.

### Key Performance Indicators

In FY 2018, the IAD began the process of developing KPIs to provide information to the TxDMV Board and executive management on the overall performance of the division. IAD, in consultation with the TxDMV Board Chair and the Finance & Audit Committee Chair, identified 10 KPIs that should be used to measure the division. These 10 KPIs are noted in Table 1.

Table 1. Key Performance Indicators

KPI #	KPI	Target
1	Internal Audit Recommendations Implemented	80%
2	Internal Audit Plan Completion	80%
3	Engagements within 10% of budgeted hours	90%
4	Percent of overall client satisfaction after an engagement	80%
5	Percent of client survey that agree audit had clear and timely communication on the audit results and report	80%
6	Percent of client survey that agree audit had sufficient knowledge about the audited area	80%
7	Percent of relevant certifications held by staff	80%
8	Number of Internal Audit Division educational efforts conducted	2
9	Percent of staff working on operational initiatives	100%
10	Percent of clients that believe that the audit recommendations were useful and beneficial after implementation	80%

IAD implemented 8 of the 10 KPIs in FY 2018 and will implement the last 2 KPIs in FY 2019. The two KPIs that were not implemented in FY 2018 are the following:

- Percent of Staff Working on Operational Initiatives
- Percent of clients that believe that the audit recommendations were useful and beneficial after implementation

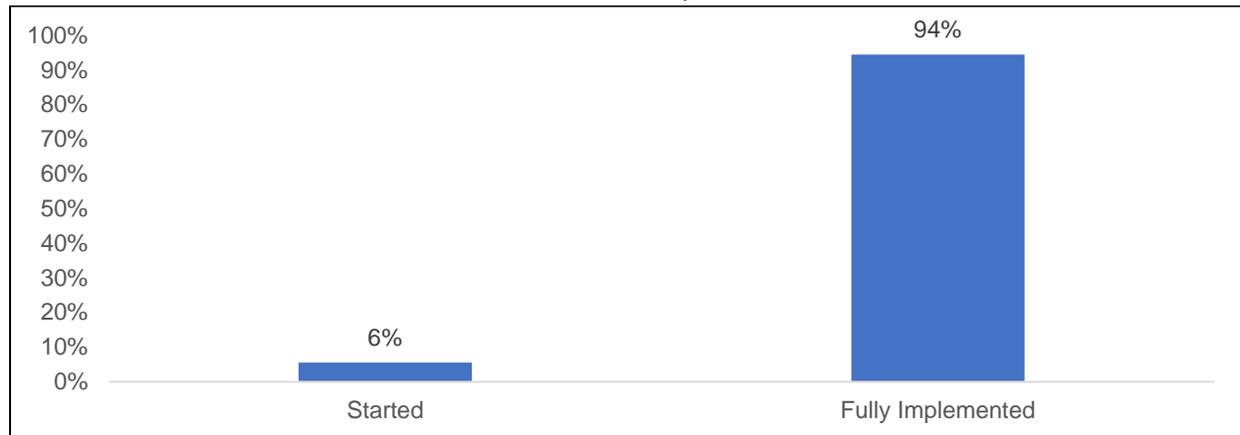
These KPIs were not implemented in FY 2018 due to when the KPIs were developed.

### Audit Recommendations Implemented

IAD tracks the number of internal audit recommendations implemented by TxDMV. The implementation rate shows TxDMV's commitment to improving processes as well as IAD effectiveness.

In FY 2018, IAD verified the implementation status of 36 internal audit recommendations. IAD verified TxDMV has fully implemented 34 internal audit recommendations (94%) and started 2 internal audit recommendations (6%) as noted in the chart below.

Chart 1. FY2018 Internal Audit Recommendation Implementation rate

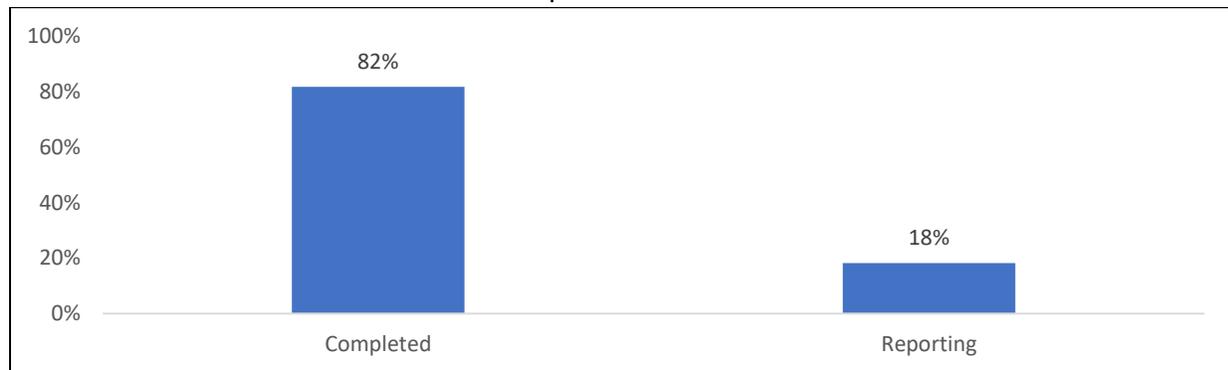


### Audit Plan Completion

IAD measures how well it tracked against the approved Internal Audit Plan. The IAD must complete at least 80% of the internal audit plan by the end of the fiscal year. Due to the nature of audit reporting, audit completion is defined by the number of engagements that were issued or in the reporting phase at the end of the fiscal year divided by the number of engagements listed on the audit plan.

In FY 2018, the IAD had completed the entire audit plan (12 audit engagements) by the end of the fiscal year. 10 engagements had been fully completed and two engagements were in the reporting phase (see Chart 2 and table 2).

Chart 2. FY 2018 Internal Audit Plan Completion Status



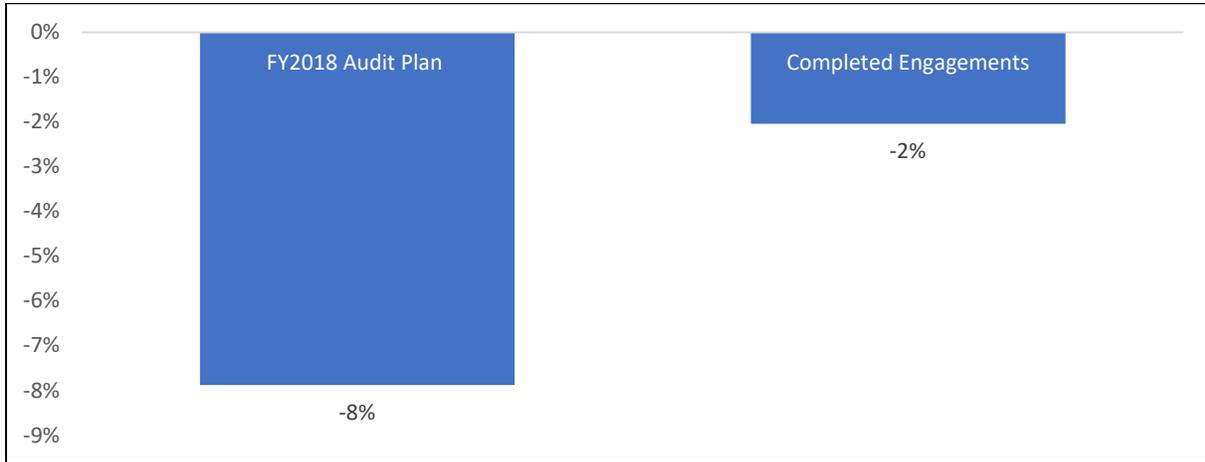
### Engagement Budgets

To measure IAD's efficiency, the IAD monitors the hours spent on engagements against the initial engagement budget. Engagements must come within 10% of the initial engagement budget. The initial engagement budget is the budget given to the engagement when it is started.

In FY 2018, the IAD met its target for Engagement Budget. For engagements that were completed at the end of FY 2018, the variance was 2% of initial budget. Overall, the variance

was 8% for all engagements that were completed or in the reporting phase at the end of the fiscal year (see chart 3).

Chart 3. FY 2018 Engagement Budget Variance

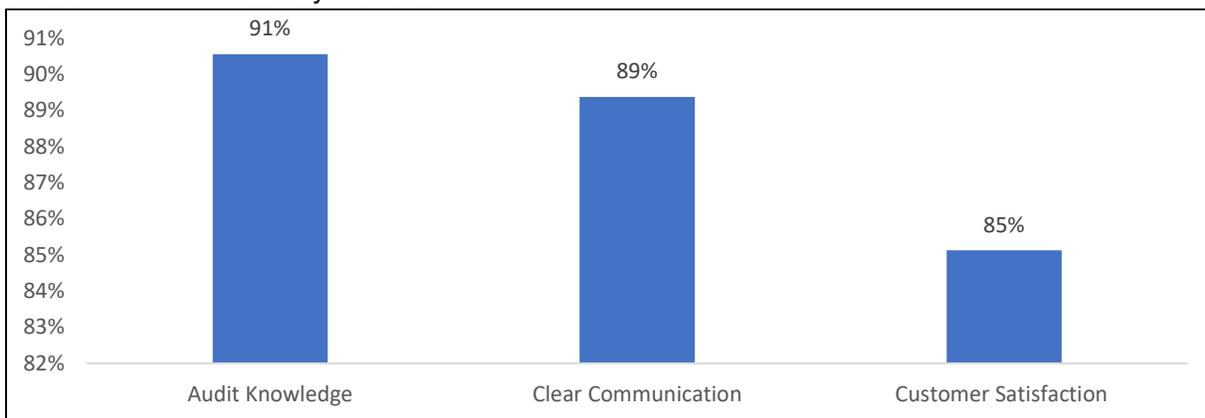


### Survey

For three KPIs, IAD uses surveys to determine if the TxDMV division staff feel that the IAD possess sufficient knowledge to conduct engagements (audit knowledge) and provides clear and timely communication (clear communication). In addition, the surveys provide information on whether division staff are satisfied with the engagement (customer satisfaction). The current KPI for each survey is at least 80% agreement.

In FY2018, IAD met its KPIs for the three KPIs related to customer satisfaction, clear communication, and audit knowledge. The results are depicted in chart 4.

Chart 4. FY 2018 Survey Results



## Staff Certification

To ensure IAD has staff that can perform the necessary audit work, the IAD measures staff certifications. The current KPI is that 80% of the recognized certifications must be present with audit staff.

In FY 2018, 80% of the recognized certification were present with audit staff. Audit staff had the following certification:

- Certified Internal Auditor
- Certified Information Systems Auditor
- Certified Government Auditing Professional
- Certified Fraud Examiner

The only certification not present was the Certified Public Accountant.

## Audit Educational Efforts

To ensure staff and stakeholders understand the role of the IAD, IAD measures how many educational efforts are done in a fiscal year. The IAD should perform at least two education efforts a year.

In FY 2018, IAD conducted eight educational efforts to internal and external stakeholders. The eight events are noted in table 2.

Table 2. FY 2018 Educational Events

#	Date	Association	Topic
1	Fall 2017	Texas Association of County Auditor's	Fraud Topic
2	Fall 2017	V.G. Young School for County Tax Assessor-Collectors	Fraud Topic
3	Spring 2018	Internal Audit Month	Open House
4	Spring 2018	Enforcement Division - Managers	What does IAD do?
5	Spring 2018	Enforcement Division - Motor Carrier Investigators	What does IAD do?
6	Spring 2018	Enforcement Division - Motor Vehicle Investigators	What does IAD do?
7	Summer 2018	Consumer Relations Division	What does IAD do?
8	Summer 2018	Vehicle Titles & Registration - Regional Service Manager	What does IAD do?

## Capability Model

During the 2018 Peer Review, the IAD Director requested that the Peer Review team review the *Capability Model for the Public Sector* and provide an assessment on the current level of the Internal Audit Division. The Peer Review team provided an initial assessment. The Peer Review team assessed the IAD at a Level 2, Infrastructure. After reviewing the Peer Review results, the IAD set its goal to level 5, Optimizing and began working towards it.

In FY 2018, made significant progress to achieve level 5 by conducting the following:

- Developing a strategic vision for IAD
- Creating workforce projection

As a result, the IAD was at a level 3, Integrated, and had made significant progress to achieving level 5. This is noted in Figure 1.

Figure 1. FY2018 Capability Model Progress

	Services and Role of IA	People Management	Professional Practices	Performance Management and Accountability	Organizational Relationships and Culture	Governance Structures
Level 5 – Optimizing	★ IA Recognized as Key Agent of Change	★ Leadership Involvement with Professional Bodies Workforce Projection	★ Continuous Improvement in Professional Practices Strategic IA Planning	★ Outcome Performance and Value to Organization Achieved	★ Effective and Ongoing Relationships	★ Independence, Power, and Authority of the IA Activity
Level 4 – Managed	Overall Assurance on Governance, Risk Management, and Control	A Contributes to Management Development IA Activity Supports Professional Bodies Workforce Planning	Audit Strategy Leverages Organization's Management of Risk	Integration of Qualitative and Quantitative Performance Measures	CAE Advises and Influences Top-level Management	Independent Oversight of the IA Activity CAE Reports to Top-level Authority
<b>Level 3 – Integrated</b>	Advisory Services Performance/Value-for-Money Audits	Team Building and Competency Professionally Qualified Staff	Quality Management Framework Risk-based Audit Plans	Performance Measures Cost Information IA Management Reports	Coordination with Other Review Groups Integral Component of Management Team	Management Oversight of the IA Activity Funding Mechanism
Level 2 – Infrastructure	Compliance Auditing	Individual Professional Development Skilled People Identified and Recruited	Professional Practices and Processes Framework Audit Plan Based on Management/ Stakeholder Priorities	IA Operating Budget IA Business Plan	Managing within the IA Activity	Full Access to the Organization's Information, Assets, and People Reporting Relationship Established
Level 1 – Initial	Ad hoc and unstructured; isolated single audits or reviews of documents and transactions for accuracy and compliance; outputs dependent upon the skills of specific individuals holding the position; no specific professional practices established other than those provided by professional associations; funding approved by management, as needed; absence of infrastructure; auditors likely part of a larger organizational unit; no established capabilities; therefore, no specific key process areas					
★	Indicates the Internal Audit Division Desired State					
	Indicates the activity has been fully institutionalized by the Internal Audit Division					
	Indicates the activity is in progress, with the Internal Audit Division working towards institutionalization					
	Indicates the activity has not been started by the Internal Audit Division					
Circle indicates current maturity level						

## Fraud, Waste, and Abuse Allegations

As part of IAD’s role, the division investigates and tracks fraud, waste, and abuse allegations. The allegations are received from multiple sources, including internal complaints, State Auditor’s Office, and internal reviews.

In FY 2018, the IAD investigated, participated, or tracked in 32 fraud, waste, and abuse allegations. Most of these allegations came through the State Auditor’s Office and dealt with consumer issues, such as dealership problems. Chart 5 and 6 provide information on the types of complaints received from the State Auditor’s Office as well as the source of most IAD allegations.

Chart 5. Fraud, Waste, and Abuse Referral

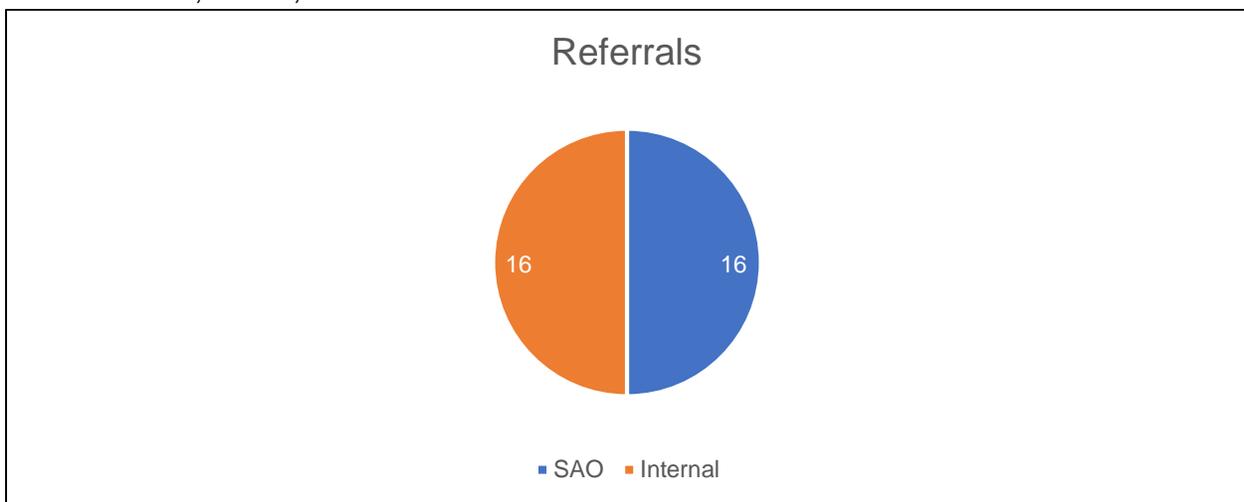
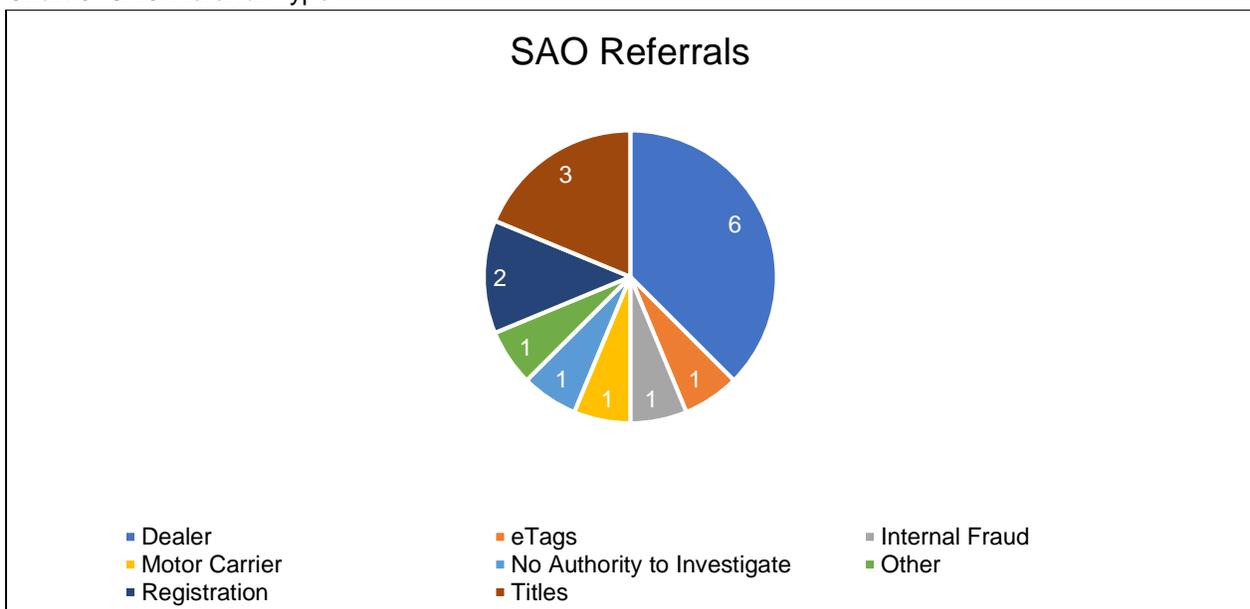
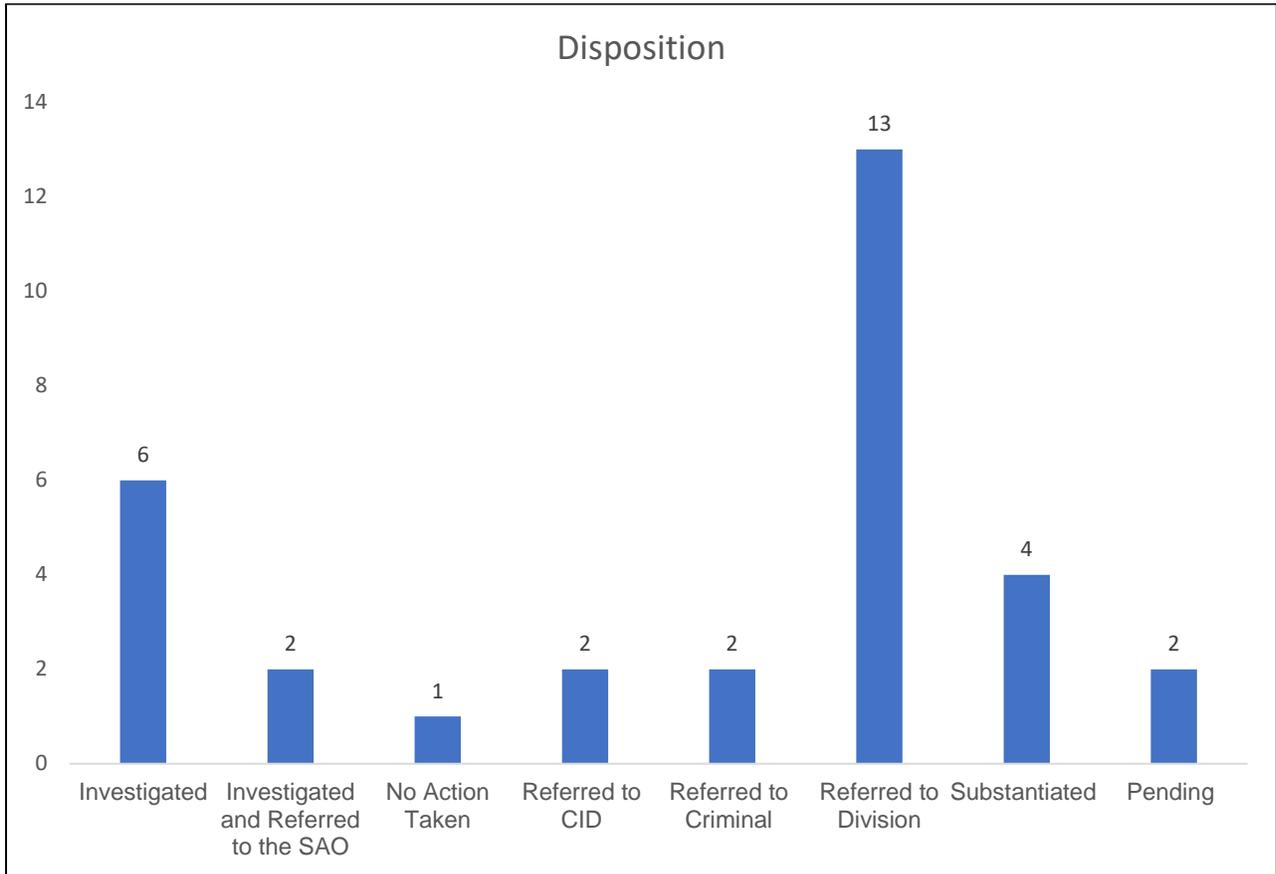


Chart 6. SAO Referral Type



For each complaint received, the IAD, in consultation with the Office of General Counsel, triages the complaints and decides whether the complaint needs to be investigated by IAD, referred to a division, or referred externally. Chart 7 provides information on the final disposition of each allegation received.

Chart 7. Fraud, Waste, and Abuse Disposition



## External Assessment

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The IAD obtained a Peer Review in early 2018 and released the Peer Review report in May 2018. The Peer Review team rated IAD as “pass”. The following is an excerpt from the peer review report’s overall opinion:

*Based on the information received and evaluated during this external quality assurance review, it is our opinion that the Texas Department of Motor Vehicles Internal Audit Division receives a rating of “pass” and is in compliance with the Institute of Internal Auditors (IIA) International Professional Practices Framework and Code of Ethics, the United States Government Accountability Office (GAO) Government Auditing Standards and the Texas Internal Auditing Act (Texas Government Code, Chapter 2102). This opinion, which is the highest of the three possible ratings, means that policies, procedures, and practices are in place to implement the standards and requirements necessary for ensuring the independence, objectivity, and proficiency of the internal audit function.*

The report noted one opportunity for improvement; the opportunity and the Internal Audit Director’s response is as follows:

Opportunity for Improvement:

*The Internal Audit Division should consider performing a periodic project related to the agency's ethics-related objectives, programs, and activities.*

Director's Response:

*The Internal Audit Division (IAD) will consider performing a project related to the agency's ethics-related objectives, programs, and activities. The Internal Audit Division is currently conducting a fraud, waste, and abuse risk assessment for the Department to determine if we have sufficient processes to mitigate current fraud, waste, and abuse risks. In addition, the Internal Audit Division plans on periodically performing informational campaigns on ethics for the Department.*

The IAD is actively working on addressing this opportunity of improvement and has begun working on creating Ethics training for the Department.

## Appendix 1: Objectives, Scope, Report Distribution

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### Objective

The objective of the Quality Assurance and Improvement Program is to provide a summary of the Internal Audit Division activities and compliance with applicable audit standards.

### Scope and Methodology

The scope of the audit included FY 2018 Internal Audit Division Activities.

Information and documents reviewed in the audit included the following:

- Survey Results
- Audit Charter
- IAD Standard Operating Procedures
- IAD Engagement Control Program
- Human Resource Records
- TxDMV IAD 2018 Peer Review Report

### Report Distribution

This report is distributed to the Board of the Texas Department of Motor Vehicles and the executive management team.

## Appendix 2: Internal Audit Capability Model for the Public-Sector Levels

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The Institute of Internal Auditors (IIA) Research Foundation developed the *Internal Audit Capability Model for the Public Sector*. The framework identifies the fundamentals needed for an effective internal audit function in the public sector. The framework describes the path an internal audit function in the public sector should follow to meet the organization's governance needs and professional expectations. The framework consists of five levels of maturity:

- **Level 1 - *Initial***: no sustainable, repeatable capabilities - dependent upon individual efforts
- **Level 2 - *Infrastructure***: sustainable and repeatable internal audit practices and procedures
- **Level 3 - *Integrated***: internal audit management and professional practices uniformly applied
- **Level 4 - *Managed***: internal audit integrates information from across the organization to improve governance and risk management
- **Level 5 - *Optimizing***: internal audit learning from inside and outside the organization for continuous improvement

While each level establishes key process that must be implemented to attain, many key processes require coordination and action by both the internal audit activity and the organization.

### Initial Assessment

The Peer Review team, based on the IAD's work done from 2015 to 2017, determined its initial level. The initial assessment can be found in Figure 2.

Figure 2. Initial Capability Model

	Services and Role of IA	People Management	Professional Practices	Performance Management and Accountability	Organizational Relationships and Culture	Governance Structures
<b>Level 5 – Optimizing</b>	IA Recognized as Key Agent of Change	Leadership Involvement with Professional Bodies Workforce Projection	Continuous Improvement in Professional Practices Strategic IA Planning	Outcome Performance and Value to Organization Achieved	Effective and Ongoing Relationships	★ Independence, Power, and Authority of the IA Activity
<b>Level 4 – Managed</b>	★ Overall Assurance on Governance, Risk Management, and Control	★ A Contributes to Management Development IA Activity Supports Professional Bodies Workforce Planning	Audit Strategy Leverages Organization's Management of Risk	Integration of Qualitative and Quantitative Performance Measures	★ CAE Advises and Influences Top-level Management	Independent Oversight of the IA Activity CAE Reports to Top-level Authority
<b>Level 3 – Integrated</b>	Advisory Services Performance/Value-for-Money Audits	Team Building and Competency Professionally Qualified Staff	★ Quality Management Framework Risk-based Audit Plans	Performance Measures Cost Information IA Management Reports	Coordination with Other Review Groups Integral Component of Management Team	Management Oversight of the IA Activity Funding Mechanism
<b>Level 2 – Infrastructure</b>	Compliance Auditing	Individual Professional Development Skilled People Identified and Recruited	Professional Practices and Processes Framework Audit Plan Based on Management/ Stakeholder Priorities	★ IA Operating Budget IA Business Plan	Managing within the IA Activity	Full Access to the Organization's Information, Assets, and People Reporting Relationship Established
<b>Level 1 – Initial</b>	Ad hoc and unstructured; isolated single audits or reviews of documents and transactions for accuracy and compliance; outputs dependent upon the skills of specific individuals holding the position; no specific professional practices established other than those provided by professional associations; funding approved by management, as needed; absence of infrastructure; auditors likely part of a larger organizational unit; no established capabilities; therefore, no specific key process areas					
	Activities that Internal Audit Division can institutionalize independent of management					
★	Indicates initial Internal Audit Division Level					
	Circle indicates defined maturity level					

## Reporting Suspected Fraud and Abuse

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### Fraud Reporting Requirements

To comply with fraud reporting requirements in the General Appropriations Act (85th Legislature, Article IX, Section 7.09), the TxDMV has taken the following actions:

- Provides information on the home page of the TxDMV website ([www.txdmv.gov](http://www.txdmv.gov)) on how to report suspected fraud, waste, and abuse directly to the State Auditor's Office (SAO)
- Includes in the agency's Human Resources Manual information on how to report suspected fraud involving state funds to the SAO. Employees are directed by agency policy to report any suspected incidents of fraud to their manager, the Internal Audit Director, and the SAO
- Provides a link on the Internal Audit Division's Intranet page to the SAO fraud hotline website

The Internal Audit Division also participates in the TxDMV Anti-Fraud, Waste, and Abuse Working Group. The working group is composed of several divisions that are involved in preventing or identifying fraud and is chaired by the Executive Director. This year, the Anti-Fraud, Waste, and Abuse Working Group began implementing new fraud training and requested an advisory service to help identify fraud, waste, and abuse risks and controls.

### Investigation Coordination Requirements

The IAD coordinates compliance with Texas Government Code, Section 321.022 (Coordination of Investigations) by submitting a quarterly report to the State Auditor's Office on the disposition of allegations received.

The IAD also evaluates all instances of fraud, waste, or abuse reported to the IAD to determine appropriate action. If the Internal Audit Director has reasonable cause to believe that fraudulent or unlawful conduct has occurred in relation to the operation of the TxDMV, the Director will work with appropriate parties and notify the SAO.

## Appendix 1: Report Distribution and Rating Information

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### Report Distribution

In accordance with the Texas Internal Auditing Act, this report is distributed to the Board of the Texas Department of Motor Vehicles, Governor's Office of Budget, Planning, and Policy, Legislative Budget Board, State Auditor's Office, and the Sunset Advisory Commission. The report was also distributed to the Department's executive management team.

### Maturity Rating Definition

IAD derived the maturity assessment ratings and definitions from the Control Objectives of Information and Related Technologies (COBIT) 5 IT Governance Framework and Maturity Model and the Enterprise Risk Management (ERM) Maturity Model. The model was adapted for the TxDMV assurance audit purposes and does not provide a guarantee against reporting misstatement and reliability, non-compliance, or operational impacts. Below are the definitions for each rating level.

0: Non-existent process level - The function used no process since a standardized process is not defined or being used.

1: Initial and ad-hoc process level - The function used an ad hoc approach when issues arise because a standardized process is not defined.

2: Repeatable but intuitive process level - The function developed a process where similar procedures are followed by several employees, but the results may not be consistent. The process is not completely documented and has not been sufficiently evaluated to address risks.

3: Defined process level - The function followed a standardized, documented, and communicated process. The process, however, may not detect any deviation due to the process not being sufficiently evaluated to address risks.

4: Managed and measurable process level - The function followed a standardized, documented, and communicated process that is monitored and measured for compliance. The function evaluated the process for constant improvement and provides good practice. The process could be improved with the use of more information technology to help automate the workflow and improve quality and effectiveness.

5: Refined level - The function followed a standardized, documented, and communicated process defined as having a good process that results from continuous improvement and the use of technology. Information technology was used in an integrated way to automate workflow and to improve quality and effectiveness of the process.



Texas Department of Motor Vehicles  
**MEMORANDUM**

Date: September 6, 2018

**To:** Whitney Brewster, Executive Director

**From:** Sandra Menjivar-Suddeath, Internal Audit Director

**Subject:** 19-03 Lemon Law Investigation and Resolution Process – Engagement Memorandum

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As part of the fiscal year (FY) 2019 Internal Audit Plan, the Internal Audit Division (IAD) will be conducting an audit on the lemon law investigation and resolution process. IAD will conduct the audit in accordance with the Institute of Internal Auditors *International Professional Practices Framework* and the Generally Accepted Government Auditing Standards.

### Audit Objectives and Scope

The preliminary audit objective is to determine whether the lemon law process provides equitable and objective resolution.

Audit objectives may be revised during the planning phase of the audit. The IAD will provide management with proposed revisions to the objectives.

As part of the engagement, IAD will work with staff from the Office of Administrative Hearings and the Enforcement Division.

### Audit Timing

The planning phase of the audit is scheduled from September 10 to October 22, 2018 and the fieldwork phase is tentatively scheduled from October 23 to November 30, 2018. The IAD expects to release the audit report in January 2019.

### Audit Communication

The IAD will provide regular communication to the clients.

If you have any questions, please contact me at (512) 465-4118. We look forward to working with both the Enforcement Division and the Office of Administrative Hearings.

**CC:** Raymond Palacios Jr., Chairman, TxDMV Board  
Luanne Caraway, Finance and Audit Committee Chairman, TxDMV Board  
Brett Graham, Finance and Audit Committee, TxDMV Board  
Kate Hardy, Finance and Audit Committee, TxDMV Board  
John M. Prewitt Finance and Audit Committee, TxDMV Board  
Guillermo “Memo” Treviño, Vice – Chair, TxDMV Board  
Robert “Barney” Barnwell III, TxDMV Board  
Gary Painter, TxDMV Board

Paul R. Scott, TxDMV Board  
Shelly Mellott, Deputy Executive Director  
David Duncan, General Counsel  
Carrie Fortner, Board Liaison  
Jason Gonzalez, Senior Internal Auditor  
Corrie Thompson, Division Director, Enforcement Division  
Edward Sandoval, Division Director, Office of Administrative Hearings



Texas Department of Motor Vehicles  
**MEMORANDUM**

Date: September 7, 2018

**To:** Whitney Brewster, Executive Director

**From:** Sandra Menjivar-Suddeath, Internal Audit Director

**Subject:** Employee Classification and Hiring Audit – Engagement Memorandum

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As part of the fiscal year (FY) 2019 Internal Audit Plan, the Internal Audit Division (IAD) will be conducting an audit on TxDMV's employee classification and hiring process. IAD will conduct the audit in accordance with the Institute of Internal Auditors *International Professional Practices Framework* and the Generally Accepted Government Auditing Standards.

### Audit Objectives and Scope

The preliminary audit objectives are to determine whether the hiring process is sufficiently agile to address current and emerging staffing needs.

Audit objectives may be revised during the planning phase of the audit. The IAD will provide management with proposed revisions to the objectives.

As part of the engagement, IAD will work with staff from the Human Resources Division (HRD).

### Audit Timing

The planning phase of the audit is scheduled from September 10, 2018 to October 16, 2018 and the fieldwork phase is tentatively scheduled from October 17, 2018 to November 21, 2018. The IAD expects to release the audit report in January 2019.

### Audit Communication

The IAD will provide regular communication to the clients.

If you have any questions, please contact me at (512) 465-4118. We look forward to working with HRD.

**CC:** Raymond Palacios Jr., Chairman, TxDMV Board  
Luanne Caraway, Finance and Audit Committee Chairman, TxDMV Board  
Brett Graham, Finance and Audit Committee, TxDMV Board  
Kate Hardy, Finance and Audit Committee, TxDMV Board  
John M. Prewitt Finance and Audit Committee, TxDMV Board  
Guillermo "Memo" Treviño, Vice – Chair, TxDMV Board  
Robert "Barney" Barnwell III, TxDMV Board  
Gary Painter, TxDMV Board

Paul R. Scott, TxDMV Board  
Shelly Mellott, Deputy Executive Director  
David Duncan, General Counsel  
Linda Flores, Chief Financial Officer  
Carrie Fortner, Board Liaison  
Derrick Miller, Senior Auditor  
Valerie Luna, Human Resources Specialist  
Tana Keeling, Human Resources Specialist



Texas Department of Motor Vehicles  
**MEMORANDUM**

Date: September 21, 2018

To: Texas Department of Motor Vehicles Board  
From: Sandra Menjivar – Suddeath, Internal Audit Director  
Subject: Fiscal year (FY) 2018 Internal Audit Follow-Up: Fourth Quarter Results

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## Background

The Internal Audit Division (IAD) continuously conducts follow-up activities to determine if appropriate action has been taken to address previously issued internal audit recommendations (recommendations). On a quarterly basis, the IAD reports to the TxDMV Board whether appropriate action was taken by assigning an implementation status to each recommendation reviewed during the designated period. The implementation status IAD assigns includes the following:

- **Fully Implemented:** The division fully implemented the audit recommendation by developing and using processes, systems, or policies. The changes are operating as intended.
- **Started:** The division began developing and using processes, systems, or policies to implement a recommendation but not all elements were complete. The division revised the completion date.
- **Pending:** The division has not begun developing processes or using processes, systems, or policies to implement a recommendation. The division revised the completion date.
- **Not Implemented/ Management Accepts the Risk:** The division and department no longer intends to develop a process, system, or policy to address a recommendation.
- **Not Applicable**<sup>1</sup>: The recommendation is no longer relevant.

The IAD determines whether appropriate action was taken and assigns an implementation status to the recommendations when the completion date is due or when the division submits an implementation action.

IAD, when it issues its reports, designates a priority for each audit recommendation. Each recommendation is rated as a HIGH or LOW priority. The priority is given based on the criteria documented in table 1.

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<sup>1</sup> Some recommendations are no longer applicable due to the age of the recommendation and organizational changes.

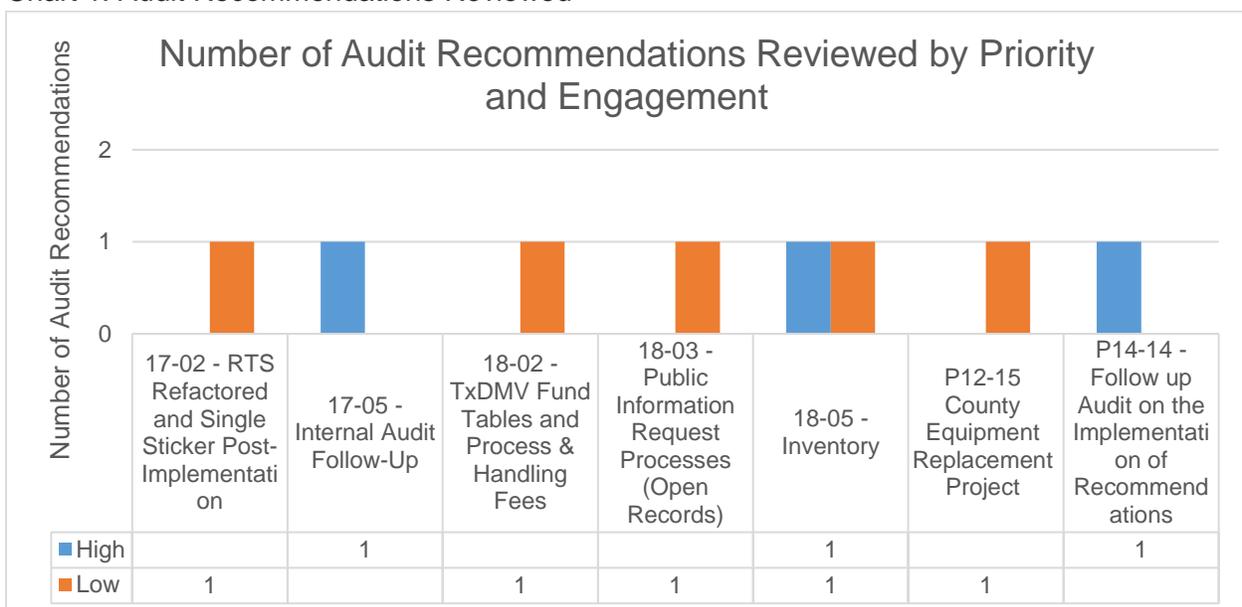
Table 1. Priority Criteria

Priority	Criteria
<b>Low</b>	<ul style="list-style-type: none"> <li>• Requires only a written policy or procedure update</li> <li>• Requires documentation submittal (e.g., evidence of risk analysis, cost benefit analysis, or TAC/TGC revision)</li> <li>• Are within an acceptable range of the risk tolerance for the division</li> <li>• External audit recommendations that are not a reoccurring or regulatory issue</li> </ul>
<b>High</b>	<ul style="list-style-type: none"> <li>• Executive Management or Board Request</li> <li>• Not within an acceptable range of the risk tolerance of the division</li> <li>• New process had to be developed to address recommendations</li> <li>• An audit recommendation (external or internal) that is a reoccurring issue or has a regulatory impact</li> </ul>

### Fourth Quarter Results

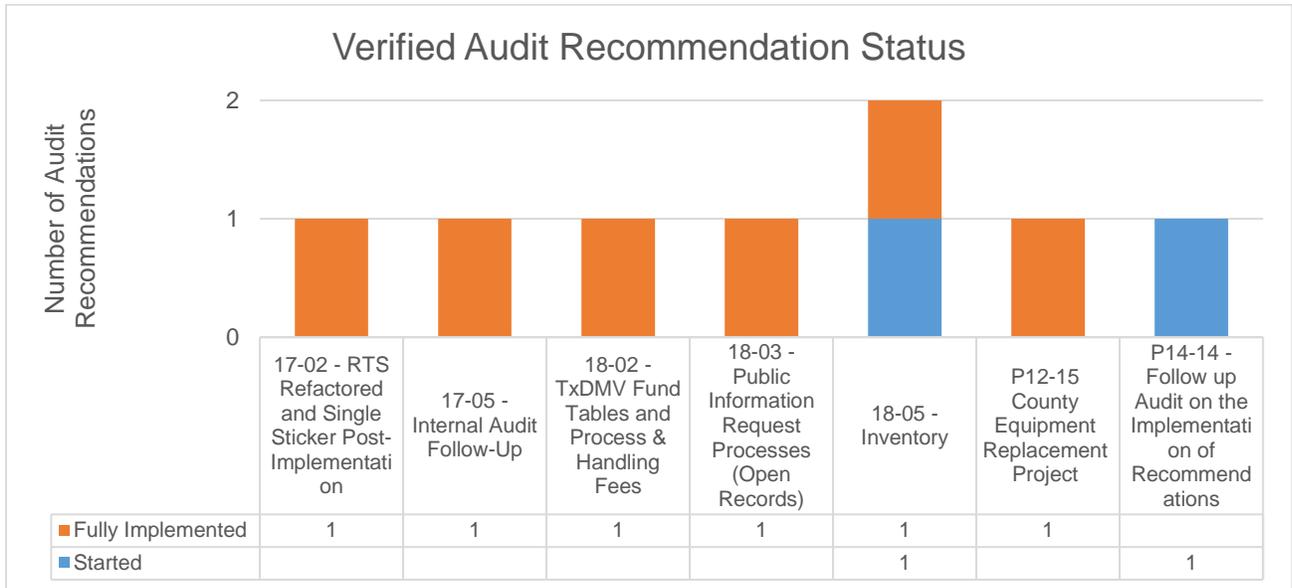
For the fourth quarter of FY 2018, the IAD reviewed eight audit recommendations, from seven internal audit reports, that had an estimated completion date or were submitted as a completed between June 1 and August 31, 2018. Out of the eight audit recommendations, three audit recommendations had a priority of HIGH and five audit recommendations had a priority of LOW, as noted in Chart 1.

Chart 1. Audit Recommendations Reviewed



The IAD verified that the department fully implemented six recommendations (75%) and started the implementation for two recommendations (25%), as noted in Chart 2.

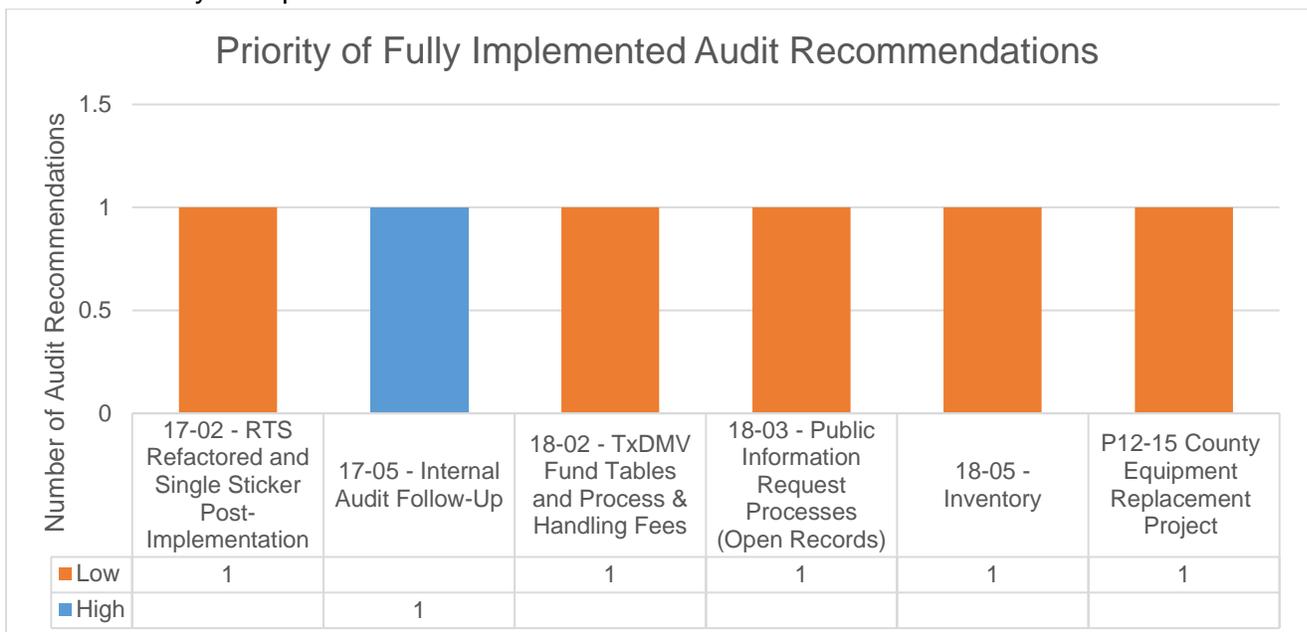
Chart 2. Verified Status



### Fully Implemented Audit Recommendations

TxDMV management fully implemented five (75%) of the eight audit recommendations. Out of those five, one recommendation had a HIGH priority and six recommendations had a LOW priority. Chart 3 depicts the priority status for fully implemented recommendations by audit.

Chart 3. Priority of Implemented Audit Recommendations



## FY 2018 Fourth Quarter Follow – Up Results

## Page 4

On average, the fully implemented audit recommendations were implemented within 67 days of the estimated completion date. One audit recommendation for the Inventory audit was implemented 366 days before the estimated implementation date.

### Started Audit Recommendations

For the two recommendation that were started but not completed by the estimated completion date, management provided an updated completion date. The divisions submitted both recommendations as implemented, however, the action was not sufficient to consider it fully implemented. Progress has been made on both audit recommendations. The two recommendations came from the Inventory Audit and the County Equipment Replacement Project Audit, respectively. IAD is working with both divisions to obtain updated implementation dates.

cc: Whitney Brewster, Executive Director  
Shelly Mellott, Deputy Executive Director  
Carrie Fortner, Board Liaison  
TxDMV Executive Management



U.S. Department  
of Transportation

**Federal Highway  
Administration**

J. J. Pickle Federal Bldg.  
300 E. 8<sup>th</sup> Street, Rm 826  
Austin, Texas 78701

August 28, 2018

In Reply Refer To: HPP-TX

FHWA Triennial Review Regarding Heavy Vehicle Use Tax  
(HVUT) Proof of Payment

Ms. Whitney Brewster  
Executive Director,  
Texas Department of Motor Vehicles  
4000 Jackson Avenue, Building #1  
Austin, Texas 78731

Dear Ms. Brewster:

In accordance with 23 CFR 669, the Federal Highway Administration (FHWA) is responsible for conducting a triennial review of the state's procedures for compliance with the Heavy Vehicle Use Tax (HVUT) per 23 U.S.C. 141(d), including an inspection of supporting documentation and records. The last FHWA Triennial Review report of the state's HVUT procedures was successfully completed in September 2015. The primary conclusion of the FY 2015 Triennial Review report was that the Texas Department of Motor Vehicles (TxDMV) was in substantial compliance with the HVUT enforcement and procedures under federal law and regulations.

The FY 2018 HVUT Triennial Review has been scheduled for November 7-9, 2018 from 9:30 AM-4:30 PM at the Texas Department of Motor Vehicles (Camp Hubbard), 3712 Jackson Avenue, Building 6 – Fifth Floor, Peterbilt Conference Room. A copy of the proposed agenda is enclosed. We appreciate your staff's assistance (especially Mr. John Poole) toward making the FY 2018 HVUT Triennial Review a successful partnering opportunity. Should you have any questions or comments regarding this review, please contact Mr. Kirk Fauver of my staff at (512) 536-5952.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael T. Leary".

Michael T. Leary  
Director Planning & Program Development

cc:

**FHWA Texas Division**

Mr. Jack Bales, HAM-TX  
Mr. Mike Leary, HPP-TX  
Mr. Jose Campos, HPP-TX

**Texas Department of Motor Vehicles**

Mr. Jimmy Archer, Director, Motor Carrier Division  
Mr. Jeremiah Kuntz, Director, Vehicle Titles and Registration Division  
Mr. Sandra Menjivar-Suddeath, Director, Internal Audit  
Mr. John Poole III, Manager, Commercial Fleet Services Section

**Internal Revenue Service**

Karen Lynn Smith,  
Internal Revenue Service  
Texas Governmental Liaison

DATE: October 4, 2018  
Continued From: -  
Action Requested: Briefing

**To: Texas Department of Motor Vehicles (TxDMV) Board**  
**From: Linda M. Flores, CPA, Chief Financial Officer**  
**Agenda Item: 11. C.**  
**Subject: FY 2020-2021 Legislative Appropriations Request, Baseline and Exceptional Items**

### RECOMMENDATION

Briefing of the Legislative Appropriations Request, or LAR, for the upcoming Fiscal Years 2020-2021 biennium. As part of the development of the upcoming biennial appropriations process, staff presented a preliminary baseline and exceptional items at the June 14, 2018 board meeting. The appropriation request for the Texas Department of Motor Vehicles (TxDMV) request was submitted to oversight agencies on August 10, 2018.

### PURPOSE AND EXECUTIVE SUMMARY

The TxDMV submitted a baseline request of \$321.5 million. This amount includes a request for capital authority in the amount of \$47.2 million. In addition, the agency requested \$19.2 million in exceptional items. The grand total request is \$340.7 million.

### FINANCIAL IMPACT

TxDmv is a net revenue-generating agency for the state. Effective September 1, 2016, TxDMV began depositing revenue into a new agency fund recreated by the 84th Legislature, the TxDMV Fund (0010). The agency's budget request is supported by collections. The staff estimates that TxDMV will collect approximately \$3.9 billion for the State.

The majority of the agency's request (87%) will be funded from the TxDMV Fund as well as less than 1% in federal funds. Lastly, the request also includes 12% General Revenue (GR) funding for baseline and exceptional items for the Automobile Burglary & Theft Prevention Authority (ABTPA).

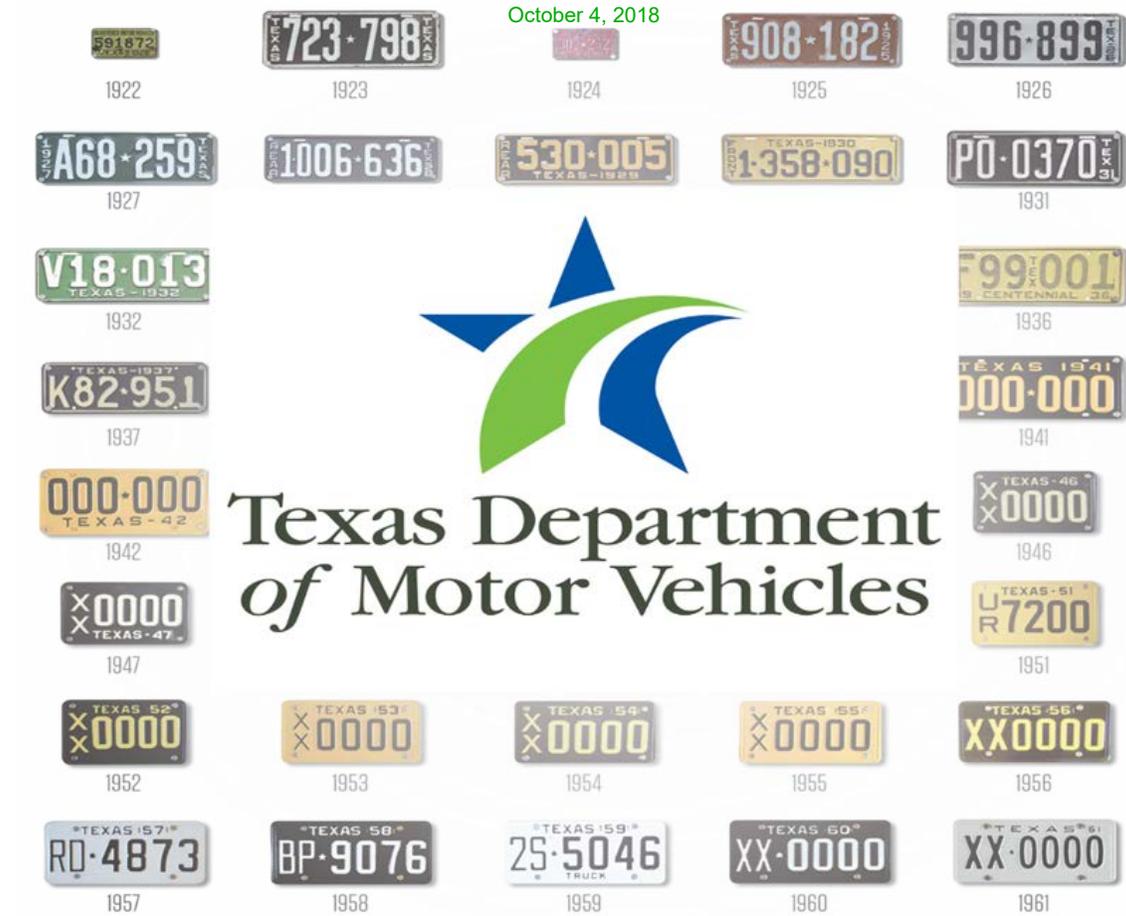
### BACKGROUND AND DISCUSSION

The department's baseline request of \$321.5 million includes initiatives to continue centralized fulfillment of online registration renewals, address long standing headquarters maintenance needs and enhanced investigative fraud prevention initiatives by Compliance & Investigations and Enforcement divisions. Included in the baseline is a capital budget request of \$47.2 which primarily consists of funding for Data Center Services, \$21.8 million; Technology Replacement for the Tax Assessor Collector offices, \$10 million; and \$5 million for TxDMV Headquarters maintenance projects.

Exceptional item requests totaled \$19.2 million and 21 new Full-Time Equivalent (FTEs). This request includes initiatives to address Sunset recommendations and operational needs to strengthen the TxDMV's organizational infrastructure.

The submitted LAR also included three new riders which would allow the agency to:

1. Spend any unexpended balances in appropriations between the first and second year of the biennium (FY 2020 and FY 2021);
2. Spend unexpended balances of state match funds for federal grants from FY 2020 in FY 2021, and
3. Spend money appropriated for capital projects for headquarters maintenance during both years of the biennium.



## FY 2020-2021

# Legislative Appropriation Request Highlights

# FY 2018-2019 Major Accomplishments

2

## Hurricane Harvey

- Governor Abbott issued waivers to provide immediate relief for the motoring public in obtaining motor vehicle registrations, titles, oversize/overweight permitting and intrastate commercial motor carriers.
- TxDMV issued almost 220,000 salvage and nonrepairable vehicle title applications from October to December 2017, 2.5 times more than during the same time period of the previous year.



# FY 2018-2019 Major Accomplishments

3

## Activities to Combat Fraud

Continued growth in Texas' population, combined with the ever-evolving technological methods used by criminal elements to commit fraud strengthens the departments commitment to prevent and detect these activities promptly.



- **Compliance and Investigations Division (CID).** Funded through an exceptional item request during the FY 2018-2019 biennium, CID investigates allegations of fraud relating to odometer roll-back, titles, license plates, public corruption and also conducts internal investigations. Currently, CID's investigative portfolio includes fraud schemes in excess of \$8 million.
- **Fraud Data Dashboard.** This dashboard uses specialized software to create dashboard reports to analyze patterns and trends in transactions to identify possible fraud. Three specialized reports are currently operational with six additional reports scheduled for completion by the end of the calendar year.

# FY 2018-2019 Major Accomplishments

4

## eLICENSING

An application that allows motor vehicle dealers, salvage dealers and industry licensees operating in Texas to apply for, renew or amend motor vehicle licenses online. eLICENSING has received multiple awards including the American Association of Motor Vehicle Administrators' (AAMVA) Trailblazer Award; AAMVA's Improvement through Efficiencies Service Award; and the Best of Texas Award presented by the Center for Digital Government for the Best IT Collaboration Among Organizations.

## Cybersecurity

TxDMV IT staff are working within DIRs' Shared Services model to implement initiatives to identify vulnerabilities and/or malware incidents, email security, application security scanning, HB8 compliant application vulnerability assessments and penetration testing for TxDMV internet applications that process sensitive information.

TxDMV business areas and IT are also working to develop and implement advanced mechanisms and procedures to ensure the data integrity of motor vehicle records.

# FY 2018-2019 Major Accomplishments

5

## Customer Service Improvements

- Standardized queuing systems at all 16 Regional Service Centers (RSCs). The systems will include the ability for our customers to schedule appointments to visit a regional service center and “virtually” wait in line.
- Initiated a kiosk pilot program to analyze the feasibility of using self-service devices, known as kiosks, to deliver various TxDMV services in a safe, secure and efficient manner.
- To increase TxDMV’s efficiency, effectiveness and transparency with our customers, the department is in the process of initiating several projects:
  - Call Center upgrade that enhances our existing telephone system for more efficient customer service, improved quality monitoring and workforce management services;
  - External Website Renovation to update the department’s public-facing website design and functionality;
  - e-TITLES is the final phase of TxDMV’s webDEALER project to streamline dealer-to-dealer vehicle reassignments and trade-in vehicle processes;
  - webLIEN project to provide lien-holders with a self-service web-enabled alternative for the addition or removal of liens.

# FY 2018-2019 Major Accomplishments

6

## Separation Activities

- Relocated the Motor Carrier Division from Bull Creek to the main Camp Hubbard campus in January 2018.
- Established a workgroup with TxDOT to develop a maintenance projects plan for the Camp Hubbard campus.

## Sunset

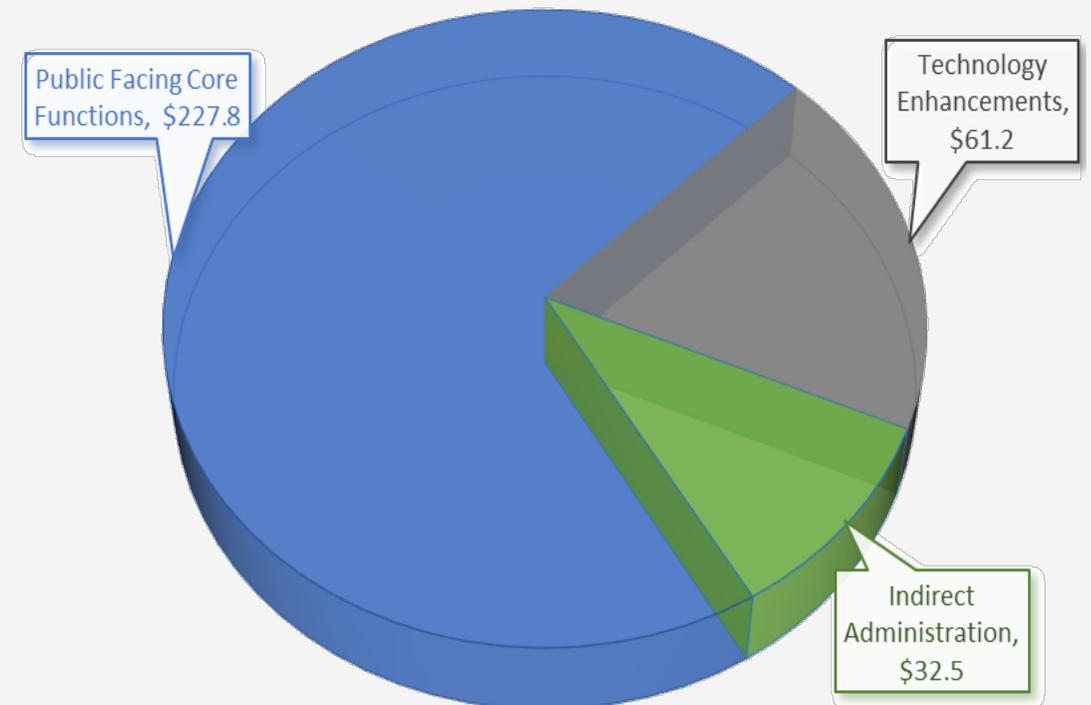
Sunset Advisory Commission met on August 29, 2019 to take action on recommendations as part of the review process for TxDMV. The department is taking action on many of the recommendations included in the staff report.

# FY 2020-2021 Overview

7

## Base - \$321.5 million – 779 FTEs

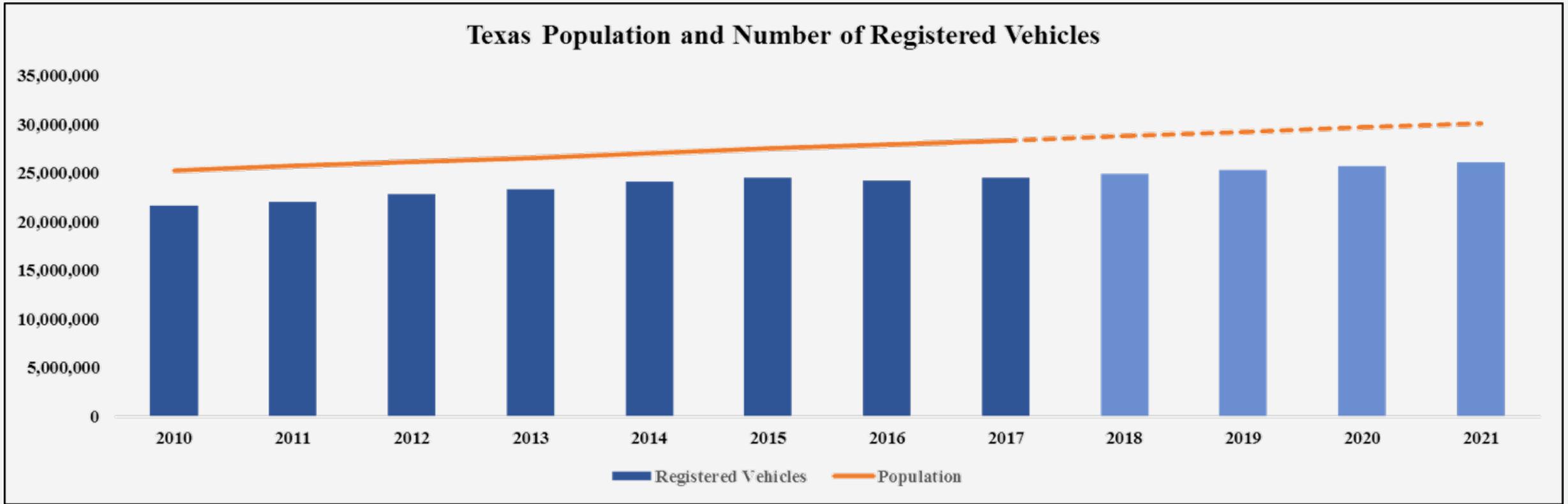
- **Public Facing Core Functions** – Registration and titling, specialty plates, regulation of vehicle dealer licensing, motor carrier permits, compliance and investigations, enforcement, customer contact center and automobile burglary and theft prevention.
- **Technology Enhancements and Automation and Information Resources** – Upgrades, maintenance and enhancements of technology systems to support core functions. Includes costs for Data Center Services.
- **Indirect Administration** – Ongoing operational needs, includes approximately \$10 million for facilities maintenance.



# Customer Service Delivery through Technology

8

Demand for TxDMV services expands due to increased population growth. It is estimated by the end of the upcoming biennium there will be over 26 million registered vehicles in Texas.



# FY 2020-2021 Exceptional Items

9

## Exceptional Item Requests

*(in priority order)*

1. Information Technology Infrastructure Improvements - \$2,700,000
  2. Information Technology Development and Maintenance - \$1,922,568, 12 FTEs
  3. Consumer Protection and Tracking - \$567,500
  4. Customer Service Enhancement - \$904,005, 9 FTEs
- 
1. Broaden ABTPA's Statutory Mandate - \$13,102,560

To meet increased demand for TxDMV services and enhance technology systems supporting those services, TxDMV is requesting use of balances in the TxDMV fund for four exceptional items totaling \$6.1 million and 21 additional FTEs.

The ABTPA request of \$13.1 million in General Revenue is contingent upon the approval of the Sunset recommendation to expand the scope of ABTPA beyond its current statutory authority to fund criminal investigation and prosecution of a broader range of vehicle crimes such as title and odometer roll-back cases.

The majority of exceptional item requests are in response to recommendations in the Sunset staff report.

# FY 2020-2021 Exceptional Item Descriptions

10

## Information Technology Infrastructure, Improvements and Enhancements

Item #1- Improving and enhancing TxDMV's information technology infrastructure  
(\$2.7 million)

- Addressed in the Sunset staff report recommendation 5.4 *Direct the department to develop a comprehensive approach to developing, maintaining, and updating its IT infrastructure.*
- TxDMV has increased the number of applications that provide value to the state of Texas including:
  - Improvements to Registration and Titling System (RTS) including applications that directly tie into RTS such as webDEALER, webSALVAGE, and Commercial Fleet Buyer.
  - Planned implementation of automated applications to facilitate online processing desired by our customers such as eTITLE and webLIEN.



# FY 2020-2021 Exceptional Item Descriptions

11

- Information Technology Infrastructure, Improvements and Enhancements  
*(continued)*
- Each application increases the complexity of the TxDMV system infrastructure resulting in additional administrative and technical overhead and staff time.
- This item will also provide funding to build out self-service password reset capabilities for major applications currently requiring manual intervention.
- These enhancements will result in an improved customer experience for internal and external TxDMV customers.

# FY 2020-2021 Exceptional Item Descriptions

12

## Information Technology Infrastructure, Improvements and Enhancements

Item #2 - Increasing the Information Technology Service Division (ITSD) staff (\$1.9 million, 12 FTEs).

- Addressed in the Sunset staff report recommendation 5.4 *Direct the department to develop a comprehensive approach to developing, maintaining, and updating its IT infrastructure.*
- Challenges faced by TxDMV information technology staff resulting from resources not keeping pace with the increased technological demands placed on the department.
- This request will allow TxDMV to develop and maintain current and future IT projects and infrastructure.



# FY 2020-2021 Exceptional Item Descriptions

13

## Information Technology Infrastructure, Improvements and Enhancements

### Item #3 - Consumer Protection and Tracking (\$567,500)

- Addressed in the Sunset staff report recommendations 2.4 *Require the department to implement a proactive, risk-based approach to monitoring fraud;* 3.6 *Direct the department to improve enforcement data tracking in its existing systems;* and 3.9 *Direct the department to publish more detailed enforcement histories of regulated motor vehicle and motor carrier businesses.*
- Leveraging technology to develop a proactive, risk-based approach to identify fraud and enforcement activities.
- Enhancement of the existing case management system to improve complaint tracking and reporting.
- Implementation of an online public facing database of case histories of motor vehicle enforcement data.
- Acquisition of fraud monitoring and reporting software for the Compliance and Investigations Division.



# FY 2020-2021 Exceptional Item Descriptions

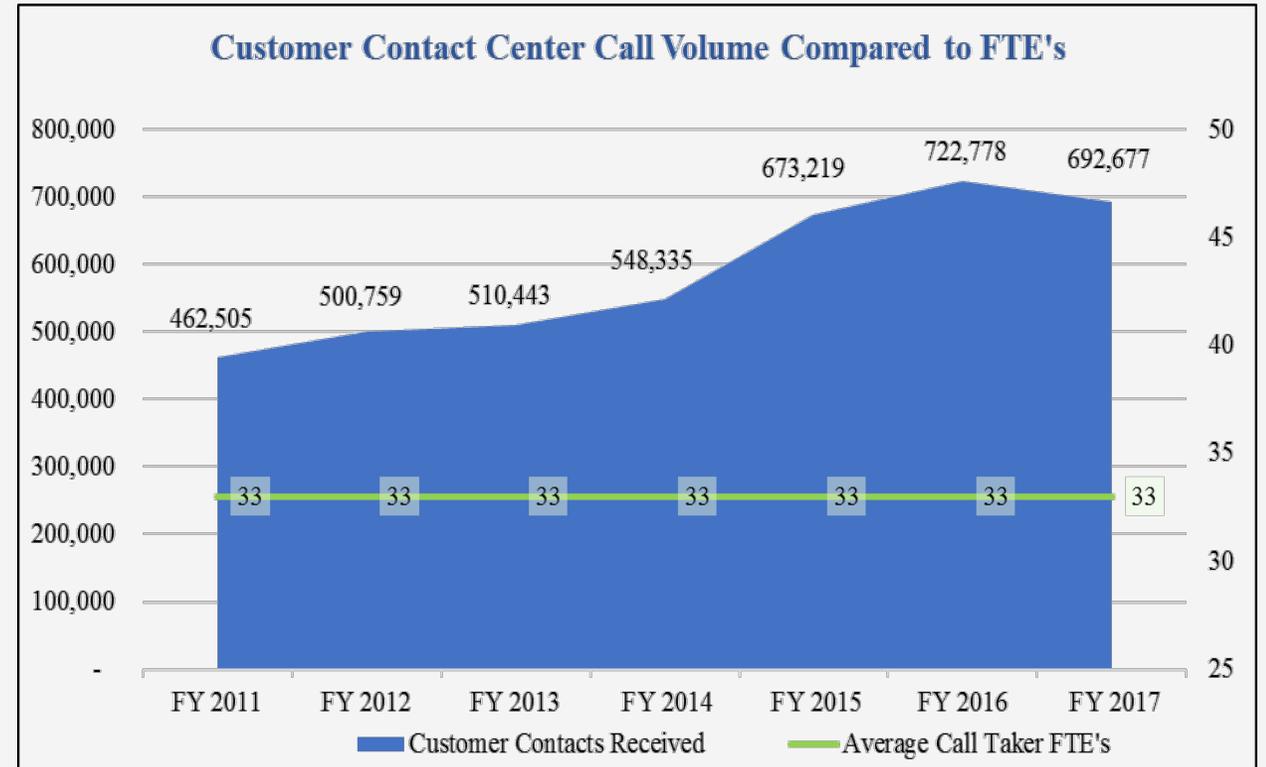
14

## Customer Service Enhancement

Increase in the number of TxDMV customers can be seen in the Customer Contact Center which is projected to handle over a half a million inquires in FY 2020 and 2021, with resources remaining constant.

Item #4 - Customer Service Enhancement (\$904,005, 9 FTEs)

- Technology upgrades and transition to online applications has increased the number of customers seeking help with online navigation issues and transaction problems.
- 8 requested positions will free up the Regional Service Centers staff to focus on customers, improve customer satisfaction ratings, reduce wait times and achieve the highest level of service for our customers.
- One position is requested to provide staff training.



# FY 2020-2021 Exceptional Item Descriptions

15

## Broadening ABTPA's Statutory Mandate

Item #5 - The #1 exceptional item request of the ABTPA Board - (\$13.1 million in General Revenue)

- Addressed in the Sunset staff report recommendation 2.6 *Authorize ABTPA grant recipients to use funds to combat a broader range of motor vehicle crimes, such as title and odometer fraud, beyond just automobile burglary and theft.*
- Authorize ABTPA grant recipients to use funds to combat a broader range of motor vehicle crimes, such as title and odometer fraud, beyond the current statutory requirement to investigate and prevent automobile burglary and theft.
- The request would fund grants to allow taskforces to hire prosecutors and intelligence analysts specializing in motor vehicle related crime; upgrade equipment and improve technology used by taskforces to clear criminal cases and to interdict both lone criminals and organized criminal networks.
- This request would enable the ABTPA to effectively administer these added responsibilities providing the ABTPA network with greater geographic coverage and better skilled law enforcement professionals.



# Questions?

DATE: October 4, 2018  
Continued From: -  
Action Requested: Briefing

**To: Texas Department of Motor Vehicles (TxDMV) Board**  
**From: Linda M. Flores, CPA, Chief Financial Officer**  
**Agenda Item: 11.D.**  
**Subject: 2018 Quarterly Financial Report**

### RECOMMENDATION

The attached Financial Summary reflects revenues and expenditures for the Texas Department of Motor Vehicles (TxDMV) through the fourth quarter ending August 31, 2018.

### PURPOSE AND EXECUTIVE SUMMARY

TxDMV Fund fee collections as of the end of the fourth quarter were \$167,231,699, which exceeded projections by 8.7%. Year-to-date obligations totaled \$123.8 million which includes employee benefits, credit card convenience fees and Texas.gov fees. The anticipated balance at year end adjusted for planned encumbrances will total \$85.7 million, which includes a beginning balance of \$41.5 million.

Collections for all revenues (including Fund 0006) exceeded last fiscal year's collections by 7%.

The agency completed the year with a budget balance of \$38.57 million of which \$16.7 million consists of capital project balances that will be carried forward to Fiscal Year (FY) 2019.

### FINANCIAL IMPACT

The department is funded with the TxDMV Fund with the exception of the Automobile Burglary and Theft Prevention Authority (ABTPA), which is funded from General Revenue. FY 2018 is the first full year of collections of the Processing and Handling (P&H) fee.

### BACKGROUND AND DISCUSSION

#### **TxDMV Fund Status**

As of August 31, 2018, collections for the TxDMV Fund totaled \$179,334,192 consisting of \$167,231,192 in fee collections plus \$12,102,492 in collections for payments of fees for credit cards and Texas.gov (payment portal for online transactions). Revenue collections in all categories were higher than projected.

- Year-to-date revenue collections for the P&H fee were 5.6% above projections at \$58,271,922 due to the higher than projected number of vehicle registration transactions.

#### **MyPlates Status**

As of August 31, 2018, General Revenue collections associated with the MyPlates contract exceeded \$43 million. Approximately \$20 million deposited to General Revenue represents an additional \$6.6 million over the \$15 million General Revenue guarantee which was met in August 2017.

## Overall Revenues

Through the fourth quarter, collections for all revenues were 7% higher than the previous fiscal year. The major drivers for higher revenue collections were titles, motor vehicle registrations, oversize/overweight permits and P&H fees. FY 2018 motor carrier credentialing revenue has returned to normal levels following delayed payments from motor carriers for Unified Carrier Registration (UCR) annual fees. The UCR board finalized and published the current fee structure later than expected. Motor carriers were given 90 days from early January to pay fees that were owed. The fees were paid in full in the third quarter and collections were in line with projections.

## Expenditures

Overall year-to-date operating expenditures through August 31, 2018 totaled \$119,408,276. Significant expenditure categories continue to include salaries, contract services for plate production, printing costs for Vehicle Titles and Registration (VTR) forms, postage, and Data Center Services (DCS) costs. Included in the year-end expenditures is approximately \$4,914,553 for contract payments to the MyPlates vendor. Contract payments to the MyPlates vendor are contingent upon revenues collected.

Included in the overall expenditure total are capital appropriation expenditures of approximately \$19.5 million. This includes expenditures of \$6.5 million associated with Data Center Services (DCS), approximately \$10.5 million in Automation expenditures primarily for project costs in the Registration and Titling System (RTS) Refactoring project, and \$1.3 million in county technology upgrades.

The preliminary year-end budget balance of \$38.57 million includes \$16.70 million in capital budget funding that can be carried forward to FY 2019. Excluding the capital budget balance of \$16.7 million, approximately \$21.87 in operating budget balances remain at year-end. The main components in the operating budget remaining balances are:

- 1) salary lapse (\$6.0 million),
- 2) lapse of \$1.3 million in budget authority for relocation costs associated with the move of staff at Bull Creek,
- 3) license plate production (\$3.7 million), and
- 4) lapse of \$1.8 million related to Rider 6 MyPlates vendor payments which are contingent on revenue collections.

The operating budget balance also includes \$4.5 million in funding for HQ maintenance that was not expended since the transfer of the Camp Hubbard property to TxDMV has yet to occur. The department has requested to carry forward \$2.2 million of the HQ Maintenance budget to FY 2019. The carry forward is contingent upon LBB approval.

Budget balances in the TxDMV fund will lapse to the fund to be used to support future appropriations.



# Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

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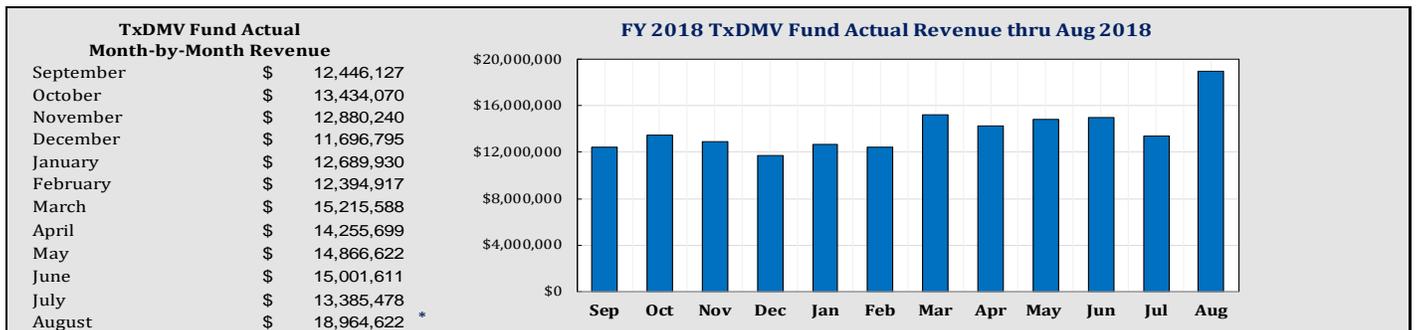
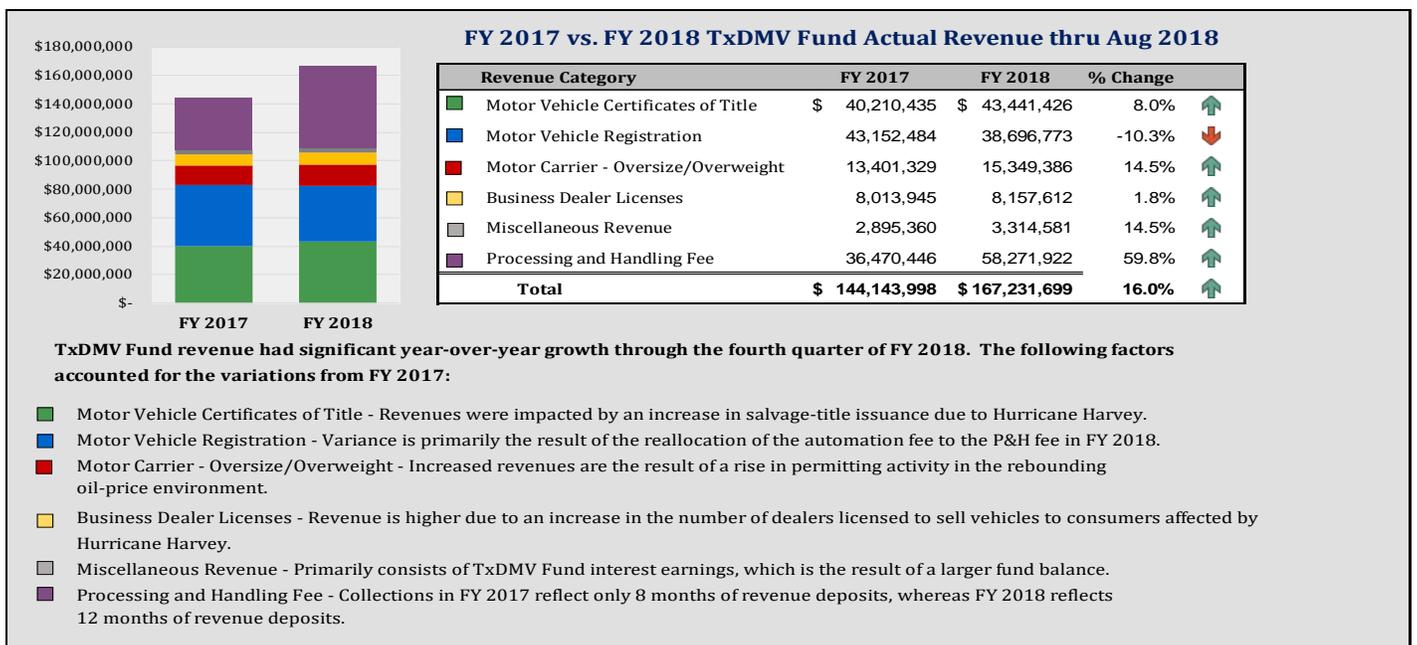
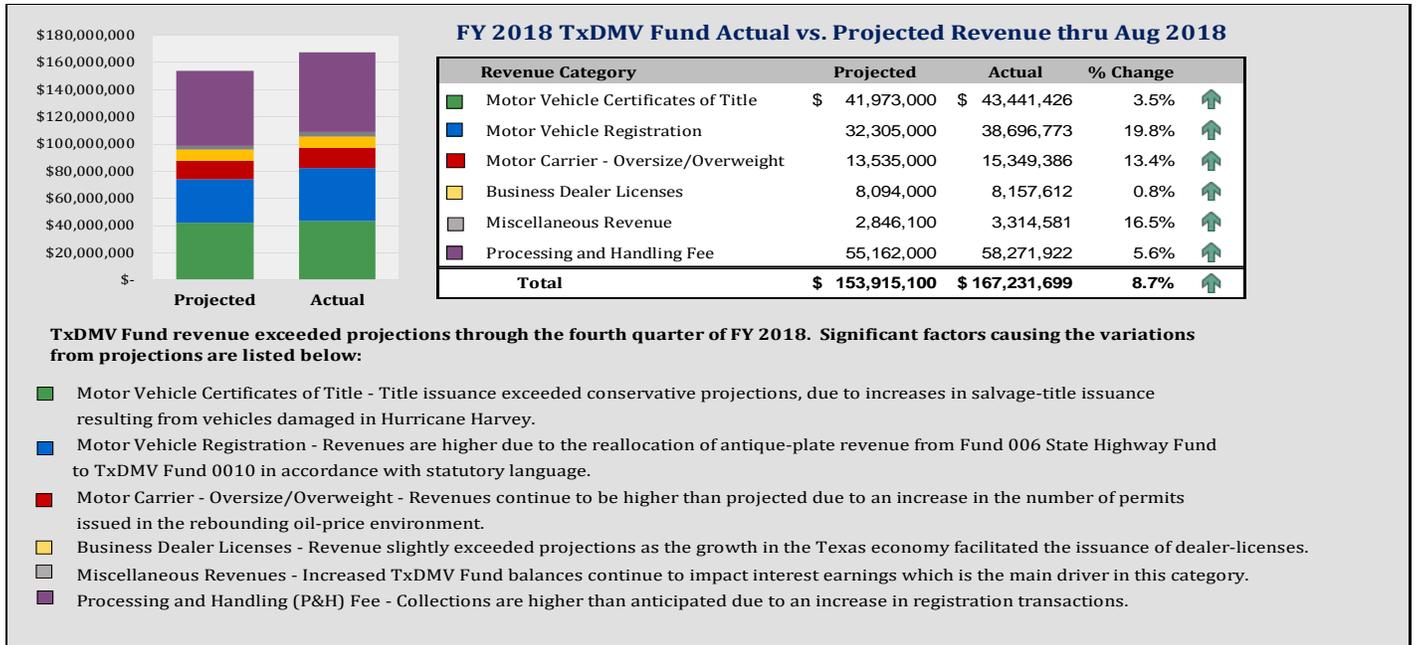
## FY 2018 Financial Summary for the 4th Quarter ending August 31, 2018

**Finance and Administrative Services Division**

**October 4<sup>th</sup>, 2018**

# FY 2018 Financial Status Highlights for the Period Ending August 31, 2018

## TxDMV Fund Highlights



\* Most of the revenue increase from July to August is attributable to the reallocation of antique-plate revenue from State Highway Fund 006 to the TxDMV Fund 0010 in accordance with Texas Transportation Code 504.002 (1) Except for license plates specified as exempt, the fee for issuance of a license plate, including replacement plates, is in addition to each other fee that is paid for at the time of the registration of the motor vehicle and shall be deposited to the credit of the Texas Department of Motor Vehicles fund;

# FY 2018 Financial Status Highlights for the Period Ending August 31, 2018

## TxDMV Fund Highlights

### FY 2018 TxDMV Fund Revenue Collections vs. Expenditures/Obligations thru Aug 2018

FY 2018 Beginning Balance: **\$ 41,506,996**

**Revenue:**

Motor Vehicle Certificates of Title	\$ 43,441,426
Motor Vehicle Registration	38,696,773
Motor Carrier - Oversize/Overweight	15,349,386
Business Dealer Licenses	8,157,612
Miscellaneous Revenue	3,314,581
Processing and Handling Fee	58,271,922
<b>Total Fee Collections</b>	<b>\$ 167,231,699</b>
Texas.gov Fees	7,708,375
Credit-Card Convenience Fees	4,394,117
<b>Total Revenue</b>	<b>\$ 179,334,192</b>

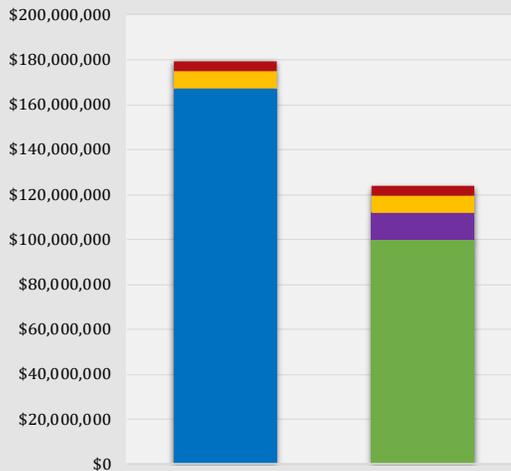
**Expenditures/Obligations:**

TxDMV Fund Expenditures	\$ 99,789,471
Fringe Benefits	11,935,645
Texas.gov Fees	7,708,375
Credit-Card Convenience Fees	4,394,117
<b>Total</b>	<b>\$ 123,827,608</b>

Ending Balance - August 2018: **\$ 97,013,580**

Adjustment for Encumbrances **\$ 11,267,182**

Adjusted Net Cash Balance - August 2018: **\$ 85,746,398**

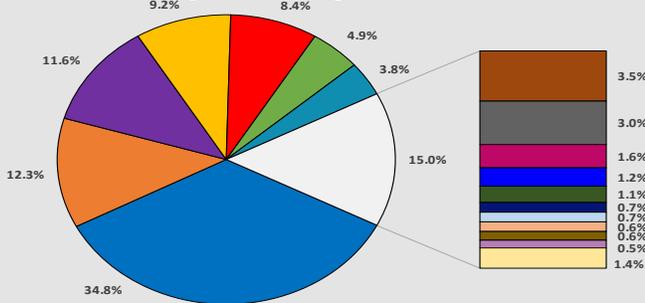


The \$179.3 million of year-to-date revenue primarily consists of \$167.2 million in TxDMV Fund fee collections. Texas.gov fees and credit-card convenience fees are also included.

Year-to-date expenditures total \$99.8 million. The year end fund balances will be \$97.0 million. Adjusting the balance for planned year end encumbrances reduces the balance to \$85.7 million.

The ending balance of \$85.7 million includes the FY 2018 beginning fund balance of \$41.5 million.

### FY 2018 TxDMV Fund Actual Revenue by Fee Total Deposits thru Aug 2018: \$167,231,699



Fee	Revenue	% of Total
Processing and Handling Fee	\$ 58,271,922	34.8%
Title Fees (\$3 Portion)	20,499,317	12.3%
Buyer's Tag	19,468,558	11.6%
Oversize/Overweight Permits	15,349,386	9.2%
Delinquent Title Transfer	13,986,241	8.4%
Business Dealer Licenses	8,157,612	4.9%
Non-Dealer Plate Fees	6,401,089	3.8%
Salvage/Title Histories	5,841,520	3.5%
MyPlates- Rider 6	4,952,466	3.0%
Replacement Sticker/Plates	2,735,902	1.6%
Miscellaneous Title Fees	2,087,609	1.2%
Veh Reg Fees-Dealer Lic Plates	1,888,784	1.1%
Interest on TxDMV Fund	1,160,776	0.7%
Transfer of Registration	1,137,471	0.7%
Motor Vehicle Record Searches	1,060,954	0.6%
Bonded Title Fee	1,024,280	0.6%
Disabled Placard Fee	855,690	0.5%
Other	2,352,125	1.4%
<b>Total</b>	<b>\$ 167,231,699</b>	<b>100.0%</b>

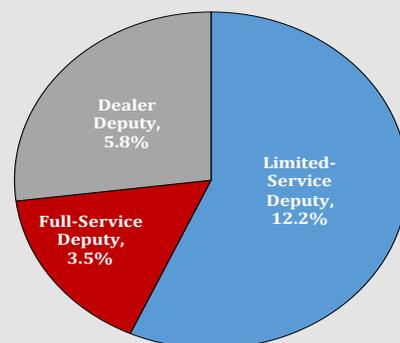
### Processing and Handling Fee



#### FY 2018 P&H Fee Revenue thru Aug 2018: \$58,271,922

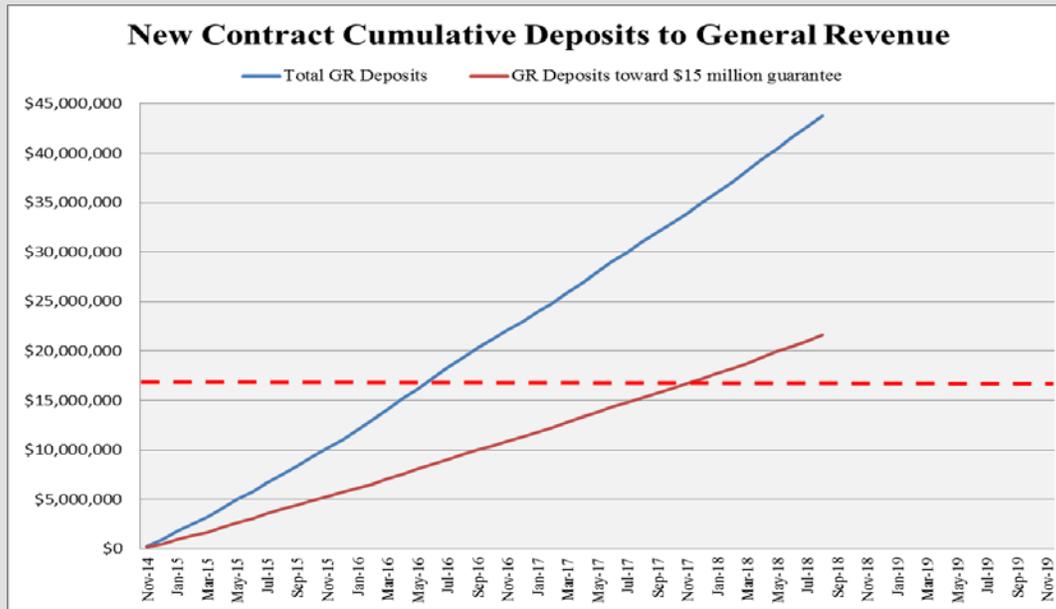
- FY 2018 P&H fee revenue made up 34.8% of TxDMV Fund collections through the fourth quarter of FY 2018.
- The year-to-date observed transaction mix was very close to projections. Online utilization was 0.6% lower than projected.
- FY 2018 year-to-date, TxDMV Fund P&H-fee revenue was 5.6% over projections. This is the result of the above-referenced transaction mix and a higher-than-projected number of transactions.

#### P&H Fee Transaction Mix



**FY 2018 Financial Status Highlights for the Period Ending August 31, 2018**

**MyPlates Revenue**



- Through August 2018, cumulative vendor deposits to General Revenue under the renewed contract totaled \$43,782,852.
- MyPlates met the \$15 million contractual guarantee the third week of August 2017. Since that date, an additional \$6,602,932 has been deposited to General Revenue.
- General Revenue deposits from the sale of vendor specialty plates are determined by plate type and plate term with the State receiving: 40% from all plate sales of one year, 95% of all renewal sales, 60% of all auction sales, 60% from all plate sales with a term of greater than one year, and 10% of all ancillary products.

**Overall Revenue Collections**

**FY 2017 vs. FY 2018 Actual Revenue - All Funds\* thru Aug 2018**

**Overall revenue collections exceeded FY 2017 collections due to:**

Revenue Category	FY 2017	FY 2018	% Change	
Motor Vehicle Certificates of Title	\$ 84,232,132	\$ 90,300,909	7.2%	↑
Motor Vehicle Registration	1,495,761,887	1,571,400,010	5.1%	↑
Motor Carrier - Oversize/Overweight	159,272,279	181,375,861	13.9%	↑
Motor Carrier Credentialing	5,716,317	5,954,605	4.2%	↑
Business Dealer Licenses	8,013,945	8,157,612	1.8%	↑
Miscellaneous Revenue	6,988,886	7,406,191	6.0%	↑
Processing and Handling Fee	36,470,446	58,271,922	59.8%	↑
<b>Total</b>	<b>\$ 1,796,455,892</b>	<b>\$ 1,922,867,110</b>	<b>7.0%</b>	<b>↑</b>

- Motor Vehicle Certificates of Title - Revenue was impacted by increased salvage title issuance due to vehicles damaged in Hurricane Harvey.
- Motor Vehicle Registration - Increased deposits to the State Highway Fund are the result of county commissions now being paid from the P&H fee instead of registration fees, and an increase in the number of registration transactions.
- Motor Carrier - Oversize/Overweight - Higher deposits due to increased permitting activity in the rebounding oil-price environment.
- Motor Carrier Credentialing - Increased number of credentialed vehicles in a time of expanded commercial-trucking activity as the Texas economy continues to advance.
- Business Dealer Licenses - Revenue is higher due to an increase in the number of dealers licensed to sell vehicles to consumers affected by Hurricane Harvey.
- Miscellaneous Revenue - The revenue increase consists primarily of interest earned in the TxDMV Fund as the result of a larger fund balance.
- Processing and Handling Fee - Collections in FY 2017 reflect only 8 months of revenue deposits, whereas FY 2018 reflects 12 months of revenue deposits.

\* All-funds revenue comprises revenue collected by the Department that is deposited to the General Revenue Fund, State Highway Fund, and TxDMV Fund.

**FY 2018 Financial Status Highlights for the Period Ending August 31, 2018**

**Revenue by Category**

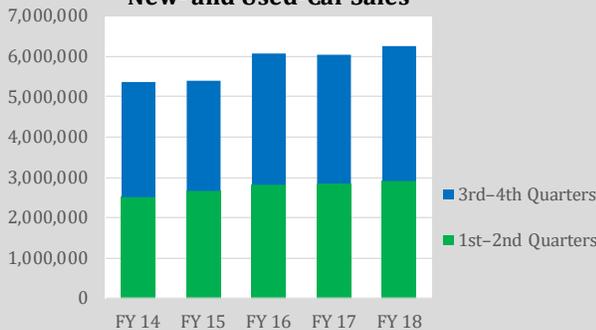
**Motor Vehicle Certificates of Title**



**FY 2018 Title Revenue thru Aug 2018: \$90,300,909**

- Motor Vehicle Titles represents 4.7% of revenue collections (all funds). The \$90,300,909 collected was deposited as follows: \$37,095,019 (41.1%) to the General Revenue Fund; \$9,764,464 (10.8%) to the State Highway Fund; and \$43,441,426 (48.1%) to the TxDMV Fund.
- Year-to-date title revenue was 7.2% above FY 2017 collections, and 4.7% above FY 2018 projections, mostly due to increased salvage-title issuance.
- Strong vehicle sales continued through the fourth quarter of FY 2018. Total dealer sales (new and used) were 6,262,485 units, 3.7% higher than FY 2017 sales through the fourth quarter. Average annual sales from FY 2014 to FY 2018 were 5,827,143 units.

**New- and Used-Car Sales**



**Motor Vehicle Registration**



**FY 2018 Registration Revenue thru Aug 2018: \$1,571,400,010**

- Motor Vehicle registration fee collections are 81.7% of revenue collections (all funds). Of the \$1,571,400,010 collected, \$1,516,742,393 (96.5%) was deposited to the State Highway Fund.
- Year-to-date registration revenue was 5.1% above FY 2017 collections, and 4.4% above FY 2018 projections.
- The number of registered vehicles continues to trend upward, as the state continues to add residents. As of August 31, 2018, there were 24,544,065 registered vehicles in Texas. This is a 1.3% increase from the 24,239,210 registered vehicles in August 2017.

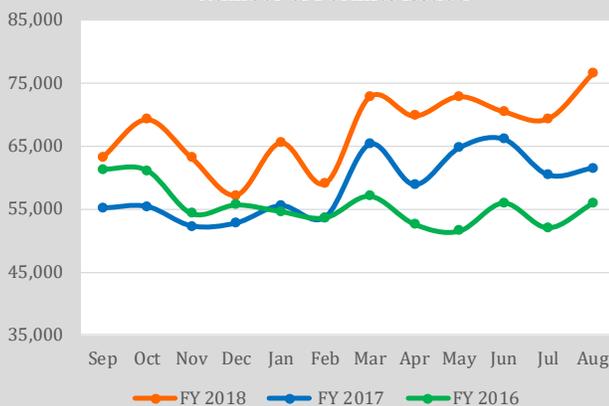
**Number of Currently Registered Vehicles**



**Motor Carrier - Oversize/Overweight**



**Number of Permits Issued**



**FY 2018 Oversize/Overweight Revenue thru Aug 2018: \$181,375,861**

- Motor Carrier oversize/overweight permit fees account for 9.4% of revenue collections (all funds). The \$181,375,861 collected was deposited as follows: \$49,399,440 (27.2%) to the General Revenue Fund; \$116,627,035 (64.3%) to the State Highway Fund; and \$15,349,386 (8.5%) to the TxDMV Fund.
- Year-to-date oversize/overweight revenue was 13.9% above FY 2017 collections, and 12.8% above FY 2018 projections.
- 809,113 oversize/overweight permits were issued in FY 2018, a 15.3% increase over FY 2017.

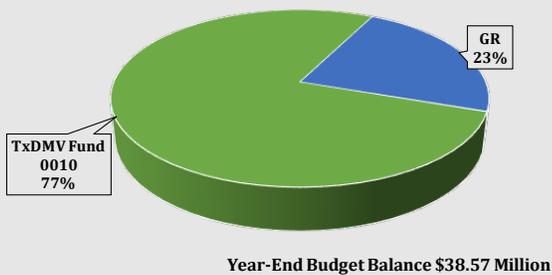
### Operating Budget Status

The FY 2018 adjusted budget as of August 31, 2018 was \$176.8 million which remained unchanged from third quarter. The percentages of the budget by fund are the same as was reported in the third quarter.

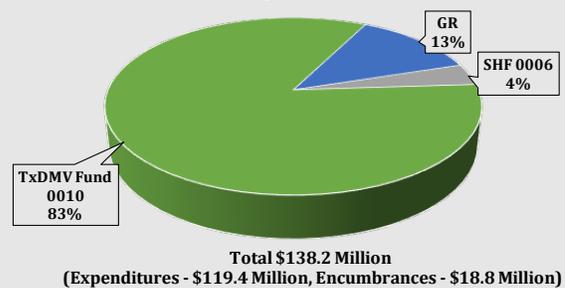
The two pie charts below show department expenditures/ encumbrances and remaining year-end budget balances by fund. Note that State Highway Fund (SHF) 0006 expenditures as a percentage of all expenditures grew in the 4th quarter due to the completion of phases in the Web Dealer Project and the approaching close out of the Registration and Titling System (RTS) Refactoring Project. Both projects experienced higher volumes of activity as compared to previous quarters.

Detail on the remaining budget balances are detailed in the section below entitled "Year-End Budget Balances".

**TxDMV 4<sup>th</sup> Quarter Remaining Budget By Fund**



**TxDMV 4<sup>th</sup> Quarter Expenditures/Encumbrances By Fund**



### Year-End Budget Balances

The preliminary year-end budget balance of \$38.57 million includes \$16.7 million in capital budget funding that can be carried forward to FY 2019. Excluding capital budget balances approximately \$21.87 million remains in operating budget balances.

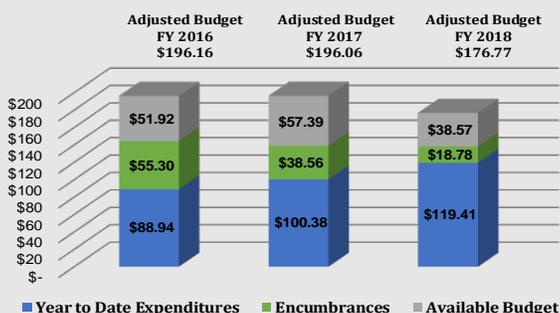
The main components in the operating budget remaining balances are salary lapse (\$6.0 million), license plate production (\$3.7 million) and lapse of \$1.3 million in budget authority for relocation costs associated with the move of staff at Bull Creek. Also included is \$1.8 million in MyPlates expenditure authority. This expenditure authority is directly tied to the revenue collected by MyPlates for contract payments to the vendor. The department's estimate for the contract payments were higher than actual revenue received, so the requested expenditure authority was not required.

Finally, the balance includes \$4.5 million in funding for HQ maintenance that was not expended since the transfer of the Camp Hubbard property to TxDMV has yet to occur. Contingent upon LBB approval is a request to carry forward \$2.2 million of the HQ Maintenance budget to FY 2019.



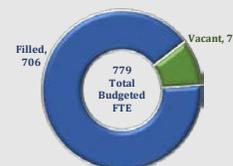
Fourth quarter expenditures are at expected levels compared to this time period in fiscal years 2016 and 2017. Prior year budgets are higher due to funding for capital projects and the inclusion of unexpended balances for Automation. Expenditures in FY 2017 were higher in operating categories related to plate production (Contract Services), Postage and Professional Fees associated with capital projects.

**TxDMV Budget Prior Year Comparisons**  
in millions



Hiring in the department has increased since the end of the hiring freeze in September 2017; overall staffing levels have grown from 672 FTEs in September 2017 to 706 FTEs as of August 2018. Both the overall staffing and vacancy counts for FY 2018 are impacted by the addition of 16 new positions added at the beginning of FY 2018 for Compliance and Investigations and HQ Maintenance Support.

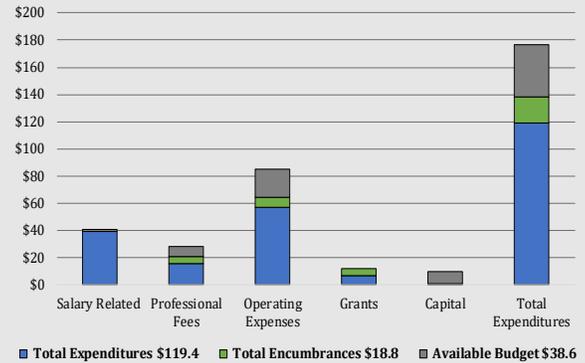
**4<sup>th</sup> Quarter FTE Status**



**FY 2018 Financial Status Highlights for the Period Ending August 31, 2018**

**FY 2018 TxDMV 4<sup>th</sup> Quarter Budget Status by Category**

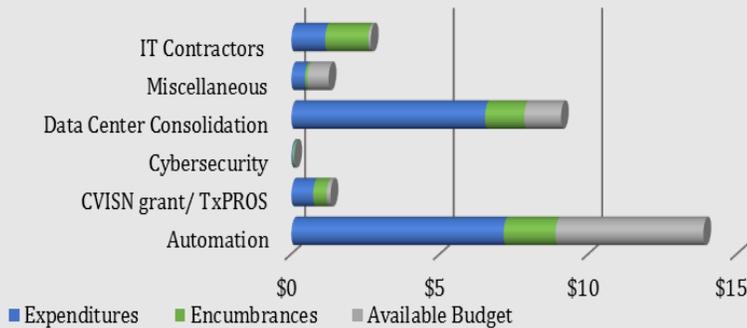
Budget Category	Revised Budget	Expenditures	Encumbrances	Available Budget
<b>Salary Related</b>	\$ 40,675,913	\$ 39,378,907	\$ -	\$ 1,297,006
<b>Professional Fees</b>	28,293,427	16,032,949	4,936,763	7,323,715
<b>Operating Expenses</b>				
Rent/Utilities	\$ 7,294,102	\$ 4,951,469	\$ 162,003	\$ 2,180,630
Contract Services and Services	35,059,663	23,468,887	3,847,184	7,743,592
Computer Equipment/Software and Maintenance & Repair	11,269,667	6,371,101	1,703,329	3,195,237
Freight, Postage, Reproduction & Printing	17,194,670	14,550,692	1,799,075	844,903
Advertising, Travel, Memberships / Training, Fuel/Consum/Fees&Chrgs	8,542,331	7,251,695	293,843	996,793
Other Expenses	6,100,223	235,943	89,393	5,774,886
<b>Operating Expenses (Subtotal)</b>	<b>\$ 85,460,656</b>	<b>\$ 56,829,788</b>	<b>\$ 7,894,827</b>	<b>\$ 20,736,041</b>
<b>Grants</b>	<b>\$ 12,339,546</b>	<b>\$ 6,726,267</b>	<b>\$ 5,613,279</b>	<b>\$ -</b>
<b>Capital</b>	<b>9,996,153</b>	<b>440,365</b>	<b>339,525</b>	<b>9,216,263</b>
<b>Total Expenditures</b>	<b>\$ 176,765,695</b>	<b>\$ 119,408,276</b>	<b>\$ 18,784,394</b>	<b>\$ 38,573,025</b>



Total year-end expenditures totaled \$119.4 million with another \$18.4 million in encumbrances leaving a balance of \$38.6 million. Salary related costs account for almost a third of department expenditures. The remaining expenditure categories are Professional Fees, primarily payments for Data Center Services and expenses related to Automation projects (itemized on the following pages); Contract Services and Services for the production of plates; Printing and Postage for registration renewals and ABTPA grants.

The bar chart below shows detail for expenditures/encumbrances for Professional Fees, Freight, Postage, and Reproduction/Printing.

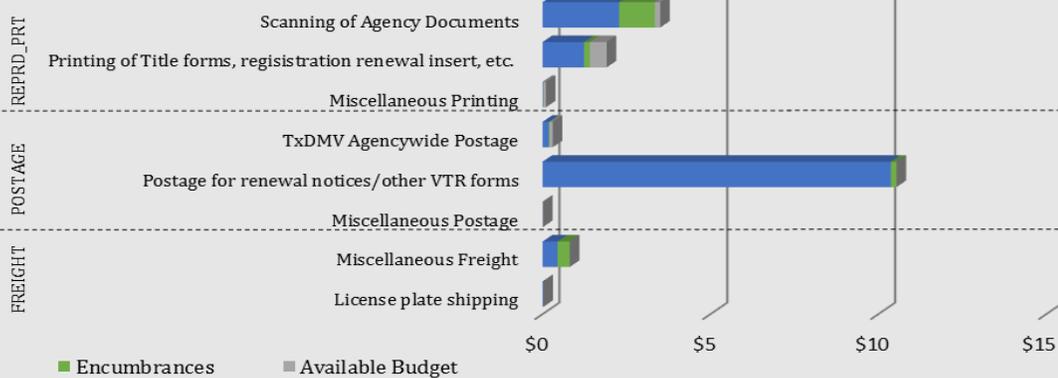
**4<sup>th</sup> Quarter Budget Status**



Most of the expenditures and encumbrances in the Professional Fees category are associated with the contract for Data Center Services. Another major expenditure/encumbrance category continues to be Automation project, specifically costs associated with the Registration and Titling System (RTS) Refactoring project.

The Miscellaneous category consists of smaller contracts for temporary services and other services.

**4<sup>th</sup> Quarter Budget Status  
Detail for Freight, Postage, Reproduction & Printing  
(in millions)**

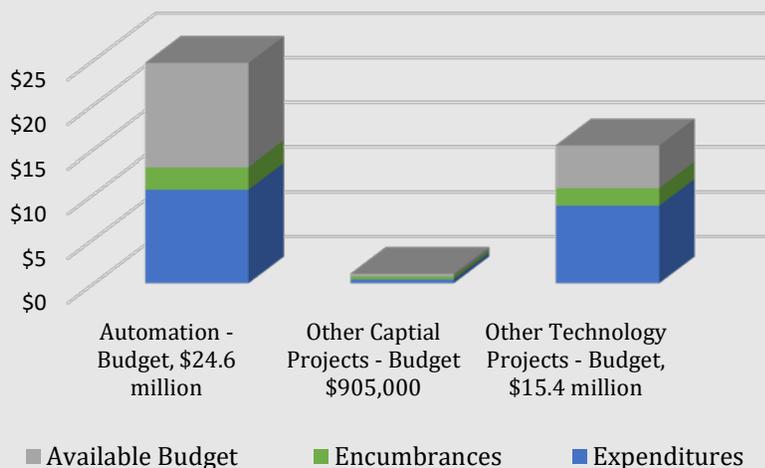


The bar chart above primarily consists of obligations related to one of the department's core missions, registration and titling of motor vehicles. The Reproduction and Printing (Reprd\_Prt) category, primarily consists of funding to image title documents for approximately \$3.5 million.

The Postage category includes \$10 million in expenditures to mail renewal notices and other vehicle registration/titling forms.

**FY 2018 Financial Status Highlights for the Period Ending August 31, 2018****Capital Budget Status**

	Revised Budget	Expenditures	Encumbrances	Available Budget
<b>Other Capital Projects</b>				
Agency Vehicles	\$ 500,000	\$ 324,207	\$ 175,634	\$ 159
CID Vehicles	100,000	76,284	23,716	-
TxDMV HQ Security/Badge System	305,000	-	-	305,000
<b>Total Other Capital Projects</b>	<b>\$ 905,000</b>	<b>\$ 400,491</b>	<b>\$ 199,350</b>	<b>\$ 305,159</b>
<b>Automation</b>	<b>\$ 24,648,427</b>	<b>\$ 10,490,473</b>	<b>\$ 2,493,276</b>	<b>\$ 11,664,678</b>
<b>Other Technology Projects</b>				
Agy Growth & Enhancement	\$ 808,998	\$ 620,123	\$ 156,801	\$ 32,074
County Technology Replacement	5,000,000	1,311,229	457,731	3,231,040
Cybersecurity Initiative	400,000	156,250	40,653	203,097
Data Center Consolidation	9,076,261	6,519,716	1,316,438	1,240,107
PC Replacement	102,295	79,588	-	22,707
<b>Other Technology Projects</b>	<b>\$ 15,387,554</b>	<b>\$ 8,686,906</b>	<b>\$ 1,971,623</b>	<b>\$ 4,729,025</b>
<b>Grand Total</b>	<b>\$ 40,940,981</b>	<b>\$ 19,577,870</b>	<b>\$ 4,664,249</b>	<b>\$ 16,698,862</b>

**4<sup>th</sup> Quarter Capital Budget Status***(in millions)*

The FY 2018 revised capital budget increased by approximately \$144,000 in the 4<sup>th</sup> quarter to \$40.9 million, specifically to fund queuing systems in several regional service centers.

Year-end capital budget expenditures total \$19.6 million. The majority of capital expenditures continues to be associated with RTS projects and the Data Center Services contract included in other technology projects. Encumbrances total \$4.7 million.

Balances in capital budget are available for carry forward to FY 2019.

**Highlights for New Capital Budget Projects**

The following is a status of capital projects approved during the 85<sup>th</sup> Legislative session:

**Agency and Compliance and Investigations Division (CID) Vehicles** – As of August 31, 2018, the department received 21 new vehicles, seventeen (17) agency replacement vehicles and four (4) new vehicles for CID. The total encumbered amount at year-end (\$199,350) reflects an order for an additional 10 replacement vehicles.

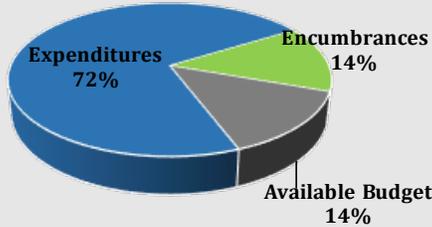
**Cybersecurity** – The total budget for FY 2018 is \$775,000. This is a new capital appropriation for FY 2018. Expenditures through August 2018 total \$72,188, for software and consulting services. Specifications are being developed for anticipated procurement processes.

**TxDMV HQ Badge and Security** – This project is on hold until TxDMV and TxDOT collaborate on security plans for the campus.

**FY 2018 Financial Status Highlights for the Period Ending August 31, 2018**

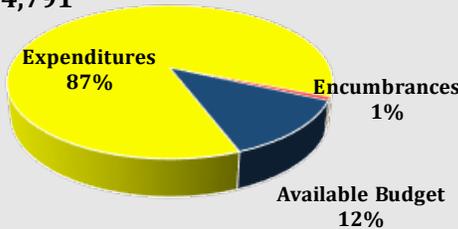
**Automation Projects**

**RTS Refactoring  
\$11.6 million**



The TxDMV Automation capital project provides for the continued development of information technology assets to improve customer services and improve access to agency programs for customers and the public.

**webDealer/ETitles  
\$1,014,791**



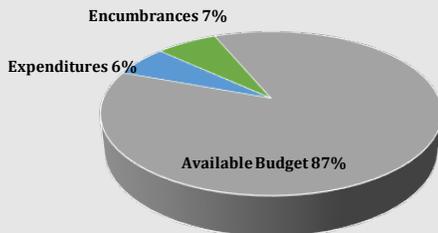
The revised budget as of August 31, 2018 for the TxDMV Automation project is \$24.6 million with approximately one-half (\$11.6 million) dedicated to the Registration and Titling System (RTS) Refactoring project. The Automation budget also includes \$7.8 million in Automation initiatives (listed in the chart below). Finally, the unallocated reserve for Automation totals \$3.3 million.

**eLicensing  
\$750,000**



The pie charts at left shows the budget status as of the end of the fourth quarter for the major projects in the TxDMV Automation project.

**Automation Initiatives**



	Revised Budget	Expenditures	Encumbrances	Available Budget
<b>Portfolio Projects</b>				
Web Lien	\$ 2,514,732	\$ -	\$ 113	\$ 2,514,619
Call Center Upgrades	600,000	-	-	600,000
Kiosk Pilot	500,000	534	7,033	492,433
E-Renewals/E-Reminder (1)	500,000	-	-	500,000
Fraud Data Dashboard	500,000	89,382	32,796	377,822
Enterprise Reporting	500,000	11,646	32,148	456,206
External Website Renovation	500,000	-	450,000	50,000
Mobile Applications (1)	300,000	-	-	300,000
Cybersecurity	775,000	72,188	16,160	686,652
CVIEW	600,000	301,648	11	298,341
Online Certified Records	500,000	-	-	500,000
<b>Total Automation Initiatives</b>	<b>\$ 7,789,732</b>	<b>\$ 475,398</b>	<b>\$ 538,261</b>	<b>\$ 6,776,073</b>

The projects listed under the category Portfolio Projects are in the initiation and planning stages at this point. The Enterprise Project Management Office along with the executive steering committee are in the process of finalizing project scope, schedules and budgets for the project charters.

(1) E-Renewals/E-Reminder and Mobile Applications projects have been closed and funding will be reallocated at a future date.

DATE: October 4, 2018

Action Requested: APPROVAL

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**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Jonathan O'Quinn, Deputy Chief Information Officers and Executive Sponsor of Kiosk Pilot Project  
**Agenda Item:** 12 A  
**Subject:** Delegation of Signature Authority to the Executive Director for the Kiosk Pilot Contract

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**RECOMMENDATION**

This is to request a decision to delegate contract approval authority to the Executive Director for the Kiosk Pilot Contract.

**PURPOSE AND EXECUTIVE SUMMARY**

Capital authority and funds for a not to exceed amount are available in the Agency Automation fund to cover the Kiosk Pilot Contract.

**FINANCIAL IMPACT**

The contract award will not exceed the authorized amount.

**BACKGROUND AND DISCUSSION**

The Texas Department of Motor Vehicles (TxDMV or Agency) oversees the state's motor vehicle services, including registering and titling vehicles, registration renewal, granting operating authority to commercial motor carriers, regulating the motor vehicle sales and distribution industry, and helping to prevent auto burglary and theft.

While TxDMV administers the vehicle title and administration programs statewide, the 254 Tax Assessor-Collectors (TACs) in Texas provide most of the direct services to the motoring public by serving walk-in customers in purchasing new vehicle registrations or renewing vehicle registrations on demand.

Customers may also renew vehicle registrations by mail, on-line, or through deputies of the TAC offices. Registration renewals processed by deputies of the county are processed through TxDMV's webSUB application.

Texas processes approximately 18 million vehicle registration renewals per year. The volume of these registration renewals processed in person at a county tax office is approximately 14 million, or 76 percent of all renewal transactions.

The Agency plans to pilot the use of self-service kiosks in selected TAC offices and retail locations within the state of Texas to be used by walk-in customers needing to renew their vehicle registrations. Customers will be able to pay for a transaction with cash, coin, credit, or debit card and receive receipts directly from the kiosk.

The Agency plans to issue a request for proposals (RFPs) to hire a qualified vendor to implement the pilot.

Costs associated with the contract will include but are not limited to hardware, software, site preparation, shipping, installation, documentation, operating instructions, maintenance, and options to buy back, remove, or move the kiosks.

The Agency will use the pilot to evaluate the costs, benefits, and efficacy of offering kiosks to all Texas counties. If the pilot results indicate the Agency should offer kiosks statewide, each pilot county and additional county which participates in the pilot program will establish its own procurement, contract, place its own orders, issue its own purchase order, be invoiced by and make its own payments to a Vendor.

The Agency may also avail itself of the program for use in its Regional Service Centers and other Agency locations and may establish its own contract, place its own orders, issue its own purchase order, be invoiced by and make its own payments to the selected Vendor.

DATE: October 4, 2018  
Continued From: -  
Action Requested: APPROVAL

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**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Timothy Menke, Compliance and Investigations Division  
**Agenda Item:** 12.B.  
**Subject:** Progress Report on Operations of Compliance and Investigations Division

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**RECOMMENDATION**

Provide the Texas Department of Motor Vehicles Board an update on Compliance and Investigations Division activity.

**PURPOSE AND EXECUTIVE SUMMARY**

Discuss the Compliance and Investigations Division's progress related to hiring, training, and liaison activity.

**FINANCIAL IMPACT**

As budgeted.

**BACKGROUND AND DISCUSSION**

**HIRING and TRAINING:**

The Compliance and Investigations Division director has filled all 21 positions to include five investigator positions, executive assistant position, criminal intelligence analyst position, attorney position, field service manager, and 12 field service representative positions. The field service representative from El Paso was promoted to field service manager.

Several training sessions were conducted to include a one-day overview for new Compliance and Investigations Division employees at the Williamson County Tax Assessor-Collector Office and a three-day divisional training session in Austin. The lead investigator and field services manager conducted multiple individual training sessions for new employees.

**OUTREACH:**

The Compliance and Investigations Division director has been in contact with the Dallas Fusion Center, North Texas Fusion Center, Houston Fusion Center, Southwest Fusions Center, Transnational Intelligence Center, Texas Joint Crime Information Center, Austin Regional Intelligence Center, and Multi-Agency Tactical Response Information Exchange. All centers agreed to collaborate with the Texas Department of Motor Vehicles and pledged support.

A Texas Department of Motor Vehicle Law Enforcement Working Group has been established and met for the first time on July 16 in Austin to discuss temporary tag issues. Quarterly meetings will take place to discuss agreed upon items of interest. Participants include federal, state, county, and local law enforcement agencies, Texas Department of Transportation Toll Operations Division, fusions centers, and multiple Texas Department of Motor Vehicle divisions.

Compliance and Investigations Division staff conducted fraud training at the Tax Assessor-Collector Association Dallas/Fort Worth Regional Meeting on August 14.



## **Board Policy Documents**

[Governance Process \(10/13/11\)](#)

[Strategic Planning \(10/13/11\)](#)

[Board Vision \(4/7/16\)](#)

[Agency Boundaries \(9/13/12\)](#)

[KPIs \(9/12/14\)](#)