

TEXAS DEPARTMENT OF MOTOR VEHICLES
FINANCE AND AUDIT COMMITTEE
MEETING

Wednesday,
February 6, 2019

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

COMMITTEE MEMBERS:

Luanne Caraway, Chair
Brett Graham
Kate Hardy
John Prewitt

ON THE RECORD REPORTING
(512) 450-0342

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EXECUTIVE SESSION	
8. 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 Section 551.074 Section 551.089	none
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P R O C E E D I N G S

1
2 MS. CARAWAY: Good afternoon. My name is Luanne
3 Caraway, and I'm pleased to open the meeting of the Finance
4 and Audit Committee of the Board of the Texas Department of
5 Motor Vehicles.

6 It is 2:00 p.m., and I'm now calling the committee
7 meeting for February 6, 2019 to order, and I want to note
8 for the record that the public notice of this meeting,
9 containing all items on the agenda, was filed with the Office
10 of Secretary of State on January 29, 2019.

11 Before we begin today's meeting, please place all
12 cell phones and other communication devices in silent mode.

13 And now I'd like to have a roll call of the
14 committee members.

15 Member Hardy?

16 MS. HARDY: Present.

17 MS. CARAWAY: Member Prewitt?

18 MR. PREWITT: Present.

19 MS. CARAWAY: And I'm Luanne Caraway, chairman
20 of the committee, and let the record reflect that we have
21 a committee quorum. Member Graham is absent today.

22 The posted agenda stated that a quorum of the board
23 may be present at this meeting, however, board members who
24 are not members of the Finance and Audit Committee will not
25 vote on any committee agenda items today nor will any board

1 action be taken.

2 I see that Chairman Palacios is in the room today
3 for information gathering and discussion.

4 And if you would, please all stand and honor our
5 country and state with the pledge of allegiance.

6 (Pledges of allegiance recited - U.S. and Texas.)

7 MS. CARAWAY: Thank you.

8 And now we will move to agenda item 3. I don't
9 have any comments.

10 Director Brewster, do you have any?

11 MS. BREWSTER: Thank you, Madam Chair.

12 I could not let this opportunity escape without
13 thanking you, Madam Chair, as well as Member Hardy, for your
14 service to the state, for your contributions to this
15 organization and making the services that we provide to the
16 citizens of the state better. We will miss you tremendously.

17 It has been my personal privilege to get to know both of
18 you better, and I know I speak on behalf of all of the agency
19 staff, we wish you all the best in your retirement, it is
20 well deserved, but we will miss you so very much. So thank
21 you.

22 (Applause.)

23 MS. CARAWAY: Thank you for that very much.

24 Moving on to agenda items 4.A and B, we will now
25 year from Linda Flores and Sergio Rey on those two items.

1 MS. FLORES: Thank you. For the record, Linda
2 Flores, chief financial officer for the Texas Department of
3 Motor Vehicles.

4 And to my far right is Sergio Rey, director of
5 accounting, and Sergio is going to provide a briefing on the
6 end of year annual financial report and nonfinancial report.

7 MR. REY: Good afternoon, Madam Chair, board
8 members, Ms. Brewster. For the record, my name is Sergio
9 Rey. I'm the department's accounting director, and as Ms.
10 Flores mentioned, I will be going over the annual financial
11 report.

12 The annual financial report is commonly referred
13 to as the AFR and it is the accounting summary of the financial
14 transactions for the fiscal year of 2018. By statute, the
15 AFR is submitted to our oversight agencies by November 20
16 of each year. The AFR is completed on a modified accrual
17 basis of accounting which means that revenue is recognized
18 when it is measurable and received and expenses are recognized
19 at the point that they become a liability to the entity.

20 The AFR is a net result of revenues and
21 expenditures, related transactions for the period starting
22 September 1, 2017 through August 31 of 2018. The AFR can
23 represent activities from up to three different appropriation
24 budgets. The General Appropriations Act allows appropriated
25 budgets to be expended in the existing fiscal year plus two

1 more. For this reason, the AFR is not a typical budget to
2 actual type report but more so a snapshot of a twelve-month
3 period of time.

4 So with that, we'll begin on page 15 of your board
5 book, and you will see right there the combined balance sheet
6 or the statement of net assets. To highlight our balance
7 sheet, you will see our three major categories: total assets,
8 which saw an increase of \$14 million; and our fund balance,
9 which saw an increase of \$22 million from fiscal year '17.

10 Both of these are a result of our increase of activities
11 in our TxDMV Fund, whether that was revenue and typically
12 in cash. Our other activities that relate to our current
13 assets were also the purchase of our 21 vehicles for the agency
14 for our fleet.

15 As we move on, because we're talking about cash
16 and revenue, let's look at the next page which is our income
17 statement, or the statement of revenue, expenditures and
18 changes in net assets. In fiscal year 2018, licenses, fees
19 and permits, which reflects 99 percent of our total revenue,
20 increased by \$100 million. This is a result of increased
21 vehicle registration and temporary permits, roughly \$55
22 million, increases in oversize/overweight permits of \$17
23 million, and a full year of the processing and handling fees
24 collections, around \$20 million. Our Auto Burglary and Theft
25 Prevention strategy continues to be appropriated from general

1 revenue, which in 2018 saw an decrease of \$2 million.

2 Our expenditures netted to a decrease of \$23
3 million. The closeout of the computer equipment refresh
4 project in 2017 was noticeable in our decrease in the materials
5 and supplies category. Postage expenditures were also lower
6 since in 2017 there was an additional postage meter load for
7 additional activities for mailing. Professional fees and
8 services also saw a decrease of expenditures during 2018 as
9 we were winding down our RTS refactoring project, and of
10 course, also the closeout of other projects during fiscal
11 year 2017 that didn't carry over into 2018, like the eLICENSING
12 project.

13 Now, as a percentage, one of our major categories,
14 salaries and payroll wages, as a percentage it reflects an
15 increase from a percentage standpoint but monetarily we
16 continued to see a decrease from the 2017 hiring freeze that
17 impacted our first quarter.

18 At this point, I will pause for any questions
19 unless you wish I proceed into the annual nonfinancial report.

20 (No response.)

21 MR. REY: Our annual report of nonfinancial data
22 is a compilation of schedules required by statute and whose
23 requirements are published by the Governor's Office of Budget
24 and Planning. TxDMV was required to submit eight of the
25 schedules as part of the nonfinancial report. In here there

1 is a detailed briefing discussion of that on page 4 of your
2 briefing book, but the nonfinancial begins on page 60 of your
3 board book. It talks about our appropriation transfers,
4 basically the movement of funds between our strategies within
5 the fiscal year, our historically underutilized business
6 strategic plan progress, which is the comparisons of the 2017
7 and '18 reach-out to historically underutilized businesses
8 owned by women and minorities

9 The next report, the indirect cost schedule, this
10 reflects the overhead cost of the agency associated with
11 payroll benefits and the Statewide Cost Allocation Plan, or
12 what we call SWCAP. Annually the Governor's Office contracts
13 with a third party to collect expenditures from oversight
14 agencies and allocate those across state agencies and state
15 public institutions in order to recuperate the costs for the
16 general revenue fund. When the department began, our costs
17 were minimal to none, starting off 2013 at \$125,000, slowly
18 increasing to in the \$200s, where in 2017 we paid \$248,000,
19 in 2018 it doubled to \$468,000. Now, much of this is related
20 to our activities with the Comptroller's Office and the
21 services provided, especially with the enterprise system,
22 CAPPS, the PeopleSoft system, the financial and HR payroll
23 modules, and in 2019 we are seeing a considerable increase
24 which will be discussed later in our exceptional items.

25 The next report of high visibility is our

1 professional consulting fees and legal services fees. This
2 is the itemized detail of the same category in our income
3 statement by the same name. Again, reflected here is the
4 decrease or the winding down of our activities with the
5 Deloitte project on the RTS refactoring that closed out on
6 August of 2018, and also decreases with other vendors such
7 as Explore Information Services which in 2017 had a project
8 to help upgrade our Texas International
9 Registration Plan which in 2018 we had our contract with them
10 to continue our annual maintenance services.

11 The other reports include our space occupied which
12 kind of details where we're at and how many of our staff is
13 in those locations. And the final report I'll cover here
14 is the vehicle purchase report which, again, reflects the
15 purchase of 21 new vehicles added to our fleet.

16 With that, that is the recap of the annual
17 financial report and the report of nonfinancial data. I'm
18 open to any questions that you may have.

19 MS. CARAWAY: Any questions?

20 (No response.)

21 MS. CARAWAY: Thank you, Sergio, for that report.

22 And we'll move on to item 5, which is the fiscal
23 year 2019 first quarter financial report. Linda Flores and
24 Renita Bankhead.

25 MS. FLORES: So at this point, again, Renita

1 Bankhead, assistant CFO, she is going to cover the first
2 quarter activities, and as Sergio mentioned, the financial
3 statements don't really provide you a budgetary impact, our
4 quarterly reports do, so it's a one-year budget, one year's
5 worth of expenditures.

6 MS. HARDY: What page is that?

7 MS. FLORES: This is starting on page 74 of your
8 board book.

9 MS. BANKHEAD: Good afternoon. Chair Caraway,
10 members of the committee, Ms. Brewster, for the record, I
11 am Renita Bankhead, assistant chief financial officer. I'm
12 here to present, as Linda said, the financial summary for
13 the first quarter of 2019. This presentation is a summary
14 of department revenue collections and expenditures for the
15 period ending November 30, 2018.

16 I'm going to start speaking from page 76 of your
17 board materials. This is a briefing item. So note this
18 format this year, it's a little different, we're still working
19 through our format. The report still contains information
20 on revenues and expenditures but what we've changed is we've
21 added a highlights section at the beginning of each section
22 and then we follow that with detailed information.

23 So beginning on page 78, total revenue for all
24 funds, total all funds revenue collections for the first
25 quarter were \$469 million, an increase of \$3.5 million over

1 the same period last year. The increases were in vehicle
2 registration and oversize/overweight permitting, and that
3 was particularly in Fund 6 that was the major driver.
4 Revenues for titles was slightly lower but that is because
5 last year we had a little spike because of the damaged
6 vehicles, salvage vehicles related to Hurricane Harvey. I'd
7 note that our revenue collections this year are within our
8 projected levels, so we are within our projections.

9 Next is beginning on page 83, our TxDMV Fund
10 highlights. Our overall TxDMV Fund collections, they covered
11 our department expenditures for the first quarter. The TxDMV
12 Fund collections were slightly higher than the same period
13 FY 2018, and the same drivers that we had for all funds also
14 impacted the TxDMV Fund: the overall increase in
15 oversize/overweight permitting, also the increase in the
16 number of registered vehicles, but title revenue was also
17 down for the DMV Fund because of the same reasons for overall
18 revenues.

19 The collections for the processing and handling
20 fee were slightly down from projected levels. A factor in
21 this drop was beginning in FY 2019, 30-day and one-day
22 temporary permits were not being sold online, and that was
23 the result of a discovery that there was unauthorized use
24 of these permits, and the agency is in the process of working
25 on measures to ensure that that unauthorized use doesn't

1 occur, so until that happens, we're not going to be selling
2 those permits online, but once we get that straightened out,
3 we'll start again, and our revenue will reflect that increase.

4 At the end of the first quarter, TxDMV Fund balance
5 was \$101 million, and this includes the \$23 million that we
6 received at the beginning of last biennium, we have not touched
7 that. Any unspent balances at year-end will remain in the
8 TxDMV Fund to support our appropriations request.

9 Let's talk briefly here about expenditures. For
10 the first quarter we haven't had anything out of the ordinary
11 for our expenditures. And that begins on page 87 of your
12 materials. Our major obligations are in salaries, ABTPA
13 grants and contract services for plate production, printing
14 and mailing for vehicle registration and titles. The chart
15 that you see there shows that our expenditures are a little
16 less than what we had in prior years, but that's because of
17 some of the things that Sergio had mentioned, we have some
18 projects that are winding down and some other things, so our
19 expenses are still where we think they should be but our
20 overall share of the budget is a little bit less, though.

21 Also included in our budget is \$35 million for
22 capital expenditures, and that includes \$15.2 million in
23 carryforward from the prior year, primarily for automation.

24 The majority of our capital budget is allocated to technology
25 projects, specifically automation and the contract for the

1 data center consolidation services contract. Those two
2 projects alone are about two-thirds of our technology budget.

3 The RTS refactoring project ended in December of 2018 and
4 we are now moving it to the maintenance phase.

5 Finally, our adjusted budget does reflect the two
6 requests the board submitted to the LBB and the Governor's
7 office for TxDMV headquarters maintenance. And the first
8 one was a carryforward of \$2.2 million of FY18 maintenance
9 funding, to be used for the same purposes in '19, and then
10 a transfer from operating expenses to create a TxDMV
11 headquarters maintenance capital project, and this project
12 provides funding for major headquarter needs such as roof
13 replacement, weatherization and any internal or external
14 building repairs.

15 That concludes my presentation. I'm happy to
16 answer any questions.

17 (No response.)y

18 MS. FLORES: Now we get to the good stuff. This
19 agenda item, again, is a briefing item and it's an update
20 to our appropriations request, really good stuff. I wanted
21 to give you an update about certain committee meetings that
22 we've had, and House Bill 1/Senate Bill 1, which is the
23 preliminary appropriations budget, has been distributed to
24 the public. For us, House Bill 1/Senate Bill 1 primarily
25 all contain the same provisions with one exception, and I'll

1 discuss that shortly.

2 So just to kind of give you a basic reminder of
3 where we were at, we submitted a request of \$321 million,
4 and we also had \$19.2 in exceptional items. House
5 Bill 1/Senate Bill 1 not only did not include any exceptional
6 items, it also reduced our base request for a couple of items.

7 It removed funding for ABTPA, as well as our headquarters
8 \$5.1 million in headquarters maintenance dollars and \$500,000
9 for regional service center renovations.

10 House Bill 1 and Senate Bill 1 both include riders
11 for unexpended balance authority for automation, allowing
12 the agency to carry forward those dollars. It allows for
13 matching funds of state dollars for a federal grant, and we
14 only have one in Motor Carrier, and it also provides some
15 UB authority for those maintenance dollars. House Bill 1,
16 unlike Senate Bill 1, also includes a new rider, it's Rider
17 10, it's a contingency rider that would transfer the driver's
18 license program.

19 We had a very short turnaround when House Bill
20 1 was distributed. The bill came out on a Monday at close
21 to 5:00. We were notified by the Legislative Budget Board,
22 our analyst, that if we wanted to have any of our exceptional
23 items reconsidered, they would need to be resubmitted by
24 Wednesday. So we quickly identified our exceptional items
25 that had not been approved, so that was kind of the first

1 pass, we want those back, we want them to consider those.

2 But in the meantime, we also included the cuts
3 to our base that they had included in House Bill 1, which
4 was facilities, the regional service center, and ABTPA, so
5 we added those in. And then the fourth item, that Sergio
6 briefly, mentioned had to do with what we SWCAP, Statewide
7 Cost Allocation Plan. What Sergio didn't indicate was that
8 that cost is tripling for FY19, and it's because of the
9 deployment of the CAPPs financial and human resources modules
10 that we're using.

11 I know that some people would think it's
12 counterintuitive that why is your cost going up, but as they
13 put out more agencies and they deploy to other agencies, the
14 cost to maintain that system as an enterprise goes up, so
15 those of us who are not general revenue get to reimburse the
16 Comptroller for the use of that system for the maintenance
17 and upgrades and whatever. So our cost in '19 will be \$1.2
18 million versus \$468,000, so we've asked for an exceptional
19 item to finance that cost. We also know that going into 2021
20 that projection is going to \$1.6 million, so that's the purpose
21 of our number 5, SWCAP. And this is not something that you
22 can argue with.

23 MR. TROUT: It's a tell.

24 MS. FLORES: It's a tell. Correct.

25 So this year we're having to come up with some

1 creative ways to pay for that bill, and so we'd like to put
2 it out there as far as the legislative committees to see that.

3 The other thing that we did modify, if a statutory
4 mandate is enacted that would broaden ABTPA's mandate when
5 it comes to title fraud, we did change that amount and
6 increased it by \$4.3 million. So to broaden ABTPA's statutory
7 mandate, we're asking for \$17.4 million for the biennium.

8 So our exceptional items went from \$19.2 million
9 to \$37.6 million for consideration by the Appropriations
10 Committee.

11 We had a meeting with the first Appropriations
12 Committee meeting, Senate Finance Appropriations, on January
13 31. The discussion centered around several items. The first
14 which drew a lot of attention was, from my perspective, House
15 Bill 1's rider transferring driver's license. There was a
16 lot of discussion about the agency's ability to take that
17 on. Sunset report, we're waiting on that, there will be some
18 guidance provided to DPS, as well as to the DMV, as to when
19 that program is scheduled to transfer. Right now it's
20 scheduled to transfer September 1, 2021, which allows the
21 agency, both agencies, to make a case to how to appropriately
22 resource that transition, so we'll have another bite at the
23 apple, if you will, as we go through session and identify
24 things that need to be done in order to get us ready for that
25 transfer.

1 The other topic that took up quite a bit was ABTPA.
2 There was a lot of discussion and interest from Senate Finance
3 to consider the request that has been put in front of them.
4 And then we also had some discussion on some of our projects,
5 the RTS refactoring project, as well as webDEALER.

6 And then finally, we were tasked with providing
7 updates by Senator West on our historically underutilized
8 business percentages. Some of our percentages have come
9 down. As a result of projects that are ending, the use of
10 minority and women-owned businesses has also gone down, and
11 so I know there is a follow-up meeting with Senator West and
12 his staff to talk about future steps as we try to get those
13 numbers back up.

14 We do have another meeting scheduled February 11,
15 at 7:30. This will be in front of House Appropriations.
16 So I believe that the same topics will probably be covered
17 at that meeting.

18 And with that, I conclude my presentation.

19 MS. CARAWAY: Any questions? Thank you all very
20 much for your reports.

21 MS. HARDY: Just a quick comment on the licensing
22 change. I guess, first things first, it has to be decided
23 whether, in fact, the DMV will absorb or combine licensing.

24 Right? If that's decided this year, and then it was by 2021
25 is implementation date that things would be ready and merged

1 and ready to go, or ready to start that process?

2 MS. BREWSTER: Madam Chair, if I may?

3 MS. CARAWAY: Yes.

4 MS. BREWSTER: Whitney Brewster, executive
5 director.

6 The recommendation that was adopted by the Sunset
7 Commission is that the report would be done and completed
8 by September 1 of 2020.

9 MS. HARDY: Okay.

10 MS. BREWSTER: And then the second part of that
11 was that the transfer would occur September 1 of 2021. That
12 recommendation, the Sunset Bill, we have not seen that yet,
13 but that is the recommendation that was adopted by the Sunset
14 Commission, so one would assume that that is what would be
15 in the bill itself.

16 MR. TROUT: So the report, obviously a couple of
17 years to get the report done, if you have twelve months to
18 implement -- hopefully everything is in the report -- how
19 do you implement everything in twelve months unless it's
20 spelled out, I guess, in the report and budgets and everything
21 else. Right? I mean, that's a huge -- a huge undertaking.

22 MS. BREWSTER: It is a huge undertaking. It does
23 give us the opportunity, though, to go back before the
24 legislature after that report is completed, as Ms.
25 Flores said, it gives us the opportunity to go back before

1 the legislature should there be any other items that need
2 to be considered that would require a budget or statute change.

3 MS. HARDY: Okay.

4 MS. CARAWAY: Not a whole lot of time.

5 MS. BREWSTER: No, not too long.

6 MS. HARDY: I mean you can't underestimate how
7 big this would be.

8 MS. BREWSTER: Right.

9 MS. CARAWAY: It's huge.

10 MS. HARDY: So twelve months.

11 MS. CARAWAY: Thank y'all very much.

12 Anything else?

13 (No response.)

14 MS. CARAWAY: Okay. So we'll move on to item
15 number 7 and the Internal Audit Division status report with
16 Sandra Menjivar-Suddeath and Derrick Miller. And I
17 apologize, Sandra, I never get your name out right the first
18 time, never. Somebody else can do that next time.

19 (General laughter.)

20 MS. CARAWAY: So you'll be addressing items 7.A
21 through D. Correct?

22 MS. MENJIVAR-SUDDEATH: Good afternoon. For the
23 record, Sandra Menjivar-Suddeath, Internal Audit director,
24 and I'm presenting item 7 which is the Internal Audit Division
25 status. This is a briefing item only, and the report can

1 be found on page 98 of your board book. The report includes
2 a status of our internal audit engagement and external audit
3 engagement.

4 For this status the status includes two completed
5 internal audit engagements and four current internal audit
6 engagements. The four current engagements includes two
7 audits and two advisory services. Advisory services, just
8 as a reminder, are management requests where there's a clear
9 deliverable and a request, and these types of engagements
10 usually provide information to the department to help with
11 the management of a process or a goal, we usually don't issue
12 recommendations, it's information only. Status also
13 includes the four external engagements that we're helping
14 to coordinate.

15 The first item on the status is the employee
16 classification and hiring process audit, and this report can
17 be found on page 100 of your board books. The audit objective
18 was to determine whether the hiring processes were
19 sufficiently agile to address current and emerging staffing
20 needs. We included this in the fiscal year 2019 audit plan
21 because effective talent management, including hiring staff,
22 is critical for the department to achieve its objectives.

23 Through our review we identified two key processes
24 for effective talent management. One is the job
25 classification reviews which ensure staff are appropriately

1 classified and divisions are properly staffed, and then the
2 hiring process which actually facilitates the hiring of
3 employees.

4 We rated the maturity level of this engagement
5 at a two which means that the work procedures are being
6 followed by several employees but the results were not
7 necessarily consistent. The process was not fully documented
8 and it had not been sufficiently evaluated to address risk.

9 We gave this rating because we had four audit results related
10 to clarifying the job classification review, monitoring
11 background checks contract deliverables, reporting conflict
12 of interest, and shortening hiring time frames.

13 Derrick Miller was the senior auditor who led the
14 engagement, and he'll provide more information on the audit
15 results.

16 MR. MILLER: Thank you, Sandra.

17 For the record, Derrick Miller, Department of
18 Motor Vehicles senior auditor.

19 To start with, again, this audit primarily focused
20 on the hiring processes and the job classification review
21 process. As background, on the job classification review
22 process, the Human Resources Division is responsible for
23 ensuring that all department employees are appropriately
24 classified according to the State's position classification
25 plan. That plan defines most state employee positions, what

1 the job duties, qualifications and salary structures are.
2 The department's classification process involves the division
3 first identifying the need for the classification review,
4 obtaining the Executive Office approval to undergo that
5 review, and then Human Resources conducts the evaluation and
6 approves the final outcome of what the classification
7 determination should be.

8 Real quickly, on the hiring process, the hiring
9 process begins when the position is submitted for posting
10 to HR from the division that's hiring, and in each of the
11 divisions a hiring manager is responsible for reviewing
12 applications, conducting and scoring the interviews and
13 selecting top candidates. And once the candidate is
14 selected, the hiring manager can then make a conditional offer
15 after the manager completes a reference check, and then a
16 final offer can be made to the candidate once a criminal
17 history background check is completed by the HR Division.
18 The department uses a contracted vendor to obtain its criminal
19 history background information.

20 Moving on to audit result number one, this had
21 to do with the job classification review process. Again,
22 the process involves all reviews undergoing the same review
23 process regardless of impact or complexity of the requested
24 changes. The Executive Office approval is required before
25 the start of any job classification review, but we found it

1 was not formally required to sign off on the final outcomes
2 of those reviews. Similarly, the Finance and Administrative
3 Services Division, their review and approval of the financial
4 impact was not formally built into the process.

5 In requiring the same process for all job
6 classification reviews, the department conducted some of
7 those reviews in greater depth than warranted on low impact
8 position changes. This created an increase in the completion
9 time for those reviews and also required the Executive Office
10 attention on many matters that were less impactful to the
11 agency. For example, job classification reviews, they
12 averaged 52 days to complete and those ranged anywhere from
13 seven days to 134 days on the higher end.

14 We looked at 14 reviews across all divisions of
15 the agency, and we found that four of those were conducted
16 for position adjustments that did not result in significant
17 changes, and there was also four reviews that did not include
18 a budgetary impact statement. In addition to all of that,
19 the lack of a defined process and the availability of guidance
20 to divisions created some confusion as to what necessary
21 supporting documents are needed, what the approval process
22 is, and what the expected timeline is for that.

23 We did make three recommendations in this area
24 to the HR Division. First, formally define and document job
25 classification review processes and communicate to the

1 divisions what the required support, approvals and workflow
2 would be, develop target time frames for the job
3 classification reviews, and finalize the proposed changes
4 to the Executive Office as far as their workflow in the
5 process.

6 MS. MENJIVAR-SUDDEATH: And if I can add, we
7 presented these issues and results to the Human Resource
8 director when he started. He had also identified some of
9 the same issues before our review and began working on these
10 issues pretty much immediately after we discussed with him,
11 so the implementation for most of these are if not already
12 in the process of being implemented or have been already taken
13 into effect.

14 MR. MILLER: Any questions on the first result?
15 That's probably the single biggest mouthful for any of our
16 results here.

17 Moving on to the second result, we looked at the
18 criminal background check contract. Again, criminal
19 background checks are required on all hires. The contract
20 language for the department's vendor required a 72-hour
21 delivery of the requested background checks, however, when
22 we looked at the actual return rate of those, we found that
23 55 of 187, which is 29 percent, took longer than 72 hours.

24 The issue was that the department was monitoring
25 the results based on the original procurement requirement

1 so the original bid said three to five business days was what
2 we were asking for, the contract language that got put in
3 actually said 72 hours, which were 72 straight hours. And
4 with the department averaging 66 days from posting a job
5 opening to making a final offer to a candidate, and since
6 this audit objective was about the ability to fulfill staffing
7 needs, adding any longer processing times than we have to
8 just increases the likelihood that we'll lose out on top
9 candidates being available.

10 I will note that we also looked at the three to
11 five day time frame and found that 95 percent of the background
12 checks came in at three to five days, if we were using that
13 yardstick.

14 A recommendation we made in this area was for the
15 HR Division to monitor the criminal history background check
16 processing times according to the contract terms of the
17 vendor.

18 MS. HARDY: Does the state use the same background
19 check agency? Do all the agencies use the same?

20 MS. MENJIVAR-SUDDEATH: No. It's dependent on
21 each department. We have one specific contract with one
22 vendor. We went through an RFP process to find the vendor,
23 select the vendor that gave us the best value, but it is
24 dependent on each agency. For example, I think DPS uses their
25 in-house service because they have it right there.

1 MS. HARDY: Okay.

2 MR. MILLER: Audit result number three regarding
3 the conflict of interest disclosures in the hiring process,
4 we found the hiring process did not address potential conflict
5 of interest arising from a personal relationship between
6 interviewers and candidates. The department does have a
7 policy prohibiting nepotism based on family relationships,
8 but it did not have a kind of prohibition or a disclosure
9 regarding conflict of interest based on a personal
10 relationship which has the potential to increase the risk
11 for any actual or perceived bias or favoritism during the
12 interviewing and hiring.

13 We looked at 27 hiring files, eight of those, or
14 30 percent, of what we reviewed contained a reference check
15 form in which the person interviewing the candidate was also
16 providing the candidate's reference for the position. Those
17 were all internal hires so for the most part those were
18 supervisors -- not all of them but the majority of those were
19 in cases where a supervisor was interviewing their own staff
20 for a higher position.

21 I will note that we did not find any evidence in
22 the hiring files that a potential conflict of interest existed
23 between the interviewers and the candidates that were selected
24 in the files that we reviewed.

25 MS. HARDY: Question. Do you guys ask on an

1 annual basis? We did at General Motors on the conflict of
2 interest because people get hired ongoing. Is that a question
3 that are asked employees?

4 MR. MILLER: Repeat the question again.

5 MS. HARDY: Oh, I'm sorry. As far as you're
6 asking it at the hiring process, but is that a regular question
7 or ongoing question every year to see if family members or
8 other people have hired into other state agencies or within
9 DMV?

10 MS. MENJIVAR-SUDDEATH: No, it's not at this
11 moment. We are working on updating our ethics policy and
12 so conflict of interest is something we're discussing as part
13 of that ethics policy and employees will be required to sign
14 it and have training I think annually, so we may incorporate
15 part of that into it.

16 MS. HARDY: Good. It is actually being done.

17 MS. BREWSTER: Madam Chair, if I might?

18 MS. CARAWAY: Yes.

19 MS. BREWSTER: During the application process on
20 the online application, there is a question each and every
21 time you apply for a job whether or not you are related to
22 any state employees and where those employees work.

23 MS. HARDY: Reside. Right?

24 MS. BREWSTER: Yes, ma'am. And so there is that
25 built into the process.

1 MS. HARDY: Okay.

2 MR. MILLER: That's why we specify it as to just
3 a personal relationship. Conflict of interest could be
4 overly broad in some cases.

5 The recommendation we made in this area is to
6 develop and implement an interviewer attestation that the
7 interviewer should disclose any potential conflict of
8 interest arising from a personal relationship between
9 themselves and the candidate.

10 The last result, audit result number four, regards
11 hiring milestones. As noted before, the department takes
12 an average of 66 days from posting a job opening to making
13 a final offer. The majority of that time is actually in the
14 divisions doing their portion of the hiring, with 27 days
15 spent screening and interviewing candidates and an additional
16 13 days to select a candidate for a position.

17 We could not determine exactly where within that
18 hiring process creates the most slowdown or bottleneck because
19 the available data was not accurately entered into the
20 department's personnel system, and therefore, we could not
21 rely upon it for that analysis.

22 The department may not be able to obtain the best candidate
23 for the position due to a long hiring process. Again, the
24 longer you go, the more chance you have a good candidate
25 slipping away.

1 HR does track and monitor some dates related to
2 the hiring process. Hiring managers are not entering hiring
3 milestone dates into the department's personnel system
4 accurately throughout the process. For example, we looked
5 at 27 hiring files, 24 did not have the candidates interview
6 date, 12 did not have the date which the hiring divisions
7 completed interviewing of all candidates, and 10 did not have
8 the date that the candidates were screened.

9 To address these areas, we recommended the Human
10 Resource Division review how information is entered into the
11 system and require the hiring managers to enter the
12 information accurately, and also to consider evaluating for
13 other opportunities to shorten the hiring timeline.

14 That concludes all my remarks on the report unless
15 there are any additional questions.

16 MR. PREWITT: On the screening, does the vendor
17 give us the day when they give the report on the background
18 check? Could that be used as a proxy for date of screening,
19 the date of receipt?

20 MS. MENJIVAR-SUDDEATH: The date of screening,
21 so screening in this is when the hiring manager goes through
22 the process to review all the applications. The system
23 actually has that information, you can put that information
24 in the system. What we found is hiring managers just weren't
25 doing it, and our Human Resource Division to help make sure

1 that these candidates didn't go away, they went ahead and
2 accepted the information even though it was incomplete to
3 make sure that they could get the offer out to the employees.

4 But like I said, without the information, we couldn't really
5 do an analysis, and we did work with Human Resources to
6 validate that they needed that information, and they said
7 yes, they do need that information to see how long the hiring
8 process is taking.

9 MR. PREWITT: Okay. Thank you.

10 MS. HARDY: For the people who didn't get the job,
11 same thing apply, do they get a response saying thanks for
12 applying but not at this time, we'll keep your record on file
13 type?

14 MS. MENJIVAR-SUDDEATH: Yes. The system
15 generates a letter and I think it can be emailed or mailed --
16 I think our Human Resource director is here if I'm incorrect --
17 but after a candidate is selected and that person is hired
18 on, a letter is generated to the person.

19 MS. HARDY: Okay. Good.

20 MS. MENJIVAR-SUDDEATH: With that, we'll move on
21 to the next item on the status report which is the Lemon Law
22 investigation and resolution audit. This audit was completed
23 in January 2019 and it's found on page 121 of your finance
24 and audit board book. Now, the senior auditor who did this
25 audit was Jason Gonzalez. Unfortunately, he's in training

1 today and will not be here, but he will be available tomorrow
2 if I can't answer any of your questions.

3 So the objective of this audit, there was two
4 objectives to this audit. One was to determine whether the
5 Lemon Law processes provide equitable and objective
6 resolution, and the second one was to determine whether the
7 Lemon Law process was achieving objectives. We included this
8 audit because in fiscal year 2015 the Texas Legislature
9 actually gave the department the ability to administer the
10 entire Lemon Law program so that the program could be more
11 efficient and effective for both the consumer and
12 manufacturer.

13 Our audit results found that the department is
14 achieving objectives and has taken steps to be seen as an
15 equitable and objective partner by providing equal
16 opportunity for the consumer and manufacturer to present their
17 cases and by providing a cost-effective resolution to
18 manufacturers and consumers, however, we did that additional
19 steps can be taken to ensure the program is meeting its
20 objective and can be further seen as equitable.

21 For that reason we rated this engagement at a level
22 two maturity, again, where procedures are being followed by
23 several employees but the results may not be consistent and
24 the process not completely documented and they may not
25 sufficiently evaluated or addressed risk.

1 We issued four audit results related to defining
2 roles and responsibilities, leveraging technology,
3 increasing communication to consumers, and identifying
4 conflict of interest. In total we had a total of 10 audit
5 recommendations to address these results.

6 One thing to note, we did do a survey of all
7 consumers and manufacturers that had gone through the process
8 to obtain their feedback on how they thought the process went.

9 Most of them stated that they appreciated the department's
10 professionalism in the process, and so we highlighted that
11 in the strengths section of our report.

12 So Lemon Law is an informal resolution process
13 designed as an alternative to costly litigation. It's only
14 for newly purchased or leased motor vehicles that develop
15 a defect or a condition that substantially impairs the use,
16 market value or safety. A consumer must give a manufacturer
17 reasonable opportunity and final opportunity to repair the
18 defect before they can file a complaint with the department.

19 Now, once a complaint is filed by the consumer,
20 there's actually two divisions that administer the program:

21 Enforcement Division and the Office of Administrative
22 Hearings. The complaints are received by the Enforcement
23 Division through eLICENSING. The Enforcement Division
24 determines eligibility and attempts to resolve the dispute
25 through informal resolution, having discussions with the

1 consumer and manufacturer to see if they can come to an
2 agreement. There's actually two full-time equivalents, or
3 FTEs, dedicated to the Lemon Law program and enforcement.
4 They're known as case advisors and these case advisors have
5 subject matter expertise in both vehicles and the Lemon Law
6 program.

7 If the case advisors cannot get to a resolution
8 with the consumer and manufacturer, then it's referred to
9 the Office of Administrative Hearings. The Office of
10 Administrative Hearings conducts a hearing and then renders
11 a final decision on the complaint. The administrative
12 hearings are conducted by two licensed attorneys, both of
13 them known as chief hearing officers. If either the consumer
14 or the manufacturer disagrees with the final decision, then
15 they can appeal the decision back to the department and the
16 department can re-hear the case or it can be sent to district
17 court.

18 So since Lemon Law is being done by two different
19 divisions, we really focused in on the processes done by the
20 divisions to kind of understand if they're achieving
21 objectives and to get conclusions on the audit objectives.

22 The first thing we noticed is that we haven't really
23 established roles and responsibilities for the Enforcement
24 Division and the Office of Administrative Hearings when it
25 comes to the Lemon Law program. We found that each division

1 was operating independently and had led to multiple things
2 that we highlighted in the first finding.

3 Two main points were one was the difference of
4 definition -- not definition -- interpretation of final
5 opportunity. So before a consumer can submit the complaint
6 to the Lemon Law program, you have to give the manufacturer
7 a final opportunity to fix the issue. In one of the cases
8 we were reviewing, the Enforcement Division had decided a
9 final opportunity had been given to the manufacturer and the
10 consumer, however, the case was then forwarded to the Office
11 of Administrative Hearings, and when it got to the Office
12 of Administrative Hearings, it was actually determined that
13 final opportunity had not been given to the manufacturer,
14 so there was a continuance in the case which delayed the
15 closing of the complaint.

16 Another thing to note also on final guidance of
17 written order. So when the Office of Administrative Hearings
18 issues a written order for a vehicle to be repaired, the
19 manufacturer has to adhere to that written order. If it does
20 not, the consumer can go through the Enforcement Division
21 to submit a complaint to see if they can get resolution on
22 it. For the Enforcement Division to actually take action
23 on a written order, there are certain things that have to
24 be included in that order.

25 One, the order needs to have information on exactly

1 what part of the vehicle violated the warranty, it has to
2 identify how the defect leads to the warranty, and there has
3 to be clear instruction on what needs to occur to resolve
4 the case. We pulled a sample of ten final orders and what
5 we identified, four orders did not document the exact part
6 that needed to be fixed, and nine orders did not have specific
7 information on how the defect leads to the warranty and/or
8 how the complaint should be resolved. This is important to
9 note because neither Enforcement or Office of Administrative
10 Hearings had really had discussions on what needed to be in
11 the order to ensure that the complaint would be fully taken
12 care of.

13 The final couple of things we noticed were vehicle
14 inspections, there was not a clear definition on when vehicle
15 inspections should be done and information on that to Office
16 of Administrative Hearings because it could help with their
17 cases. Prehearing conferences, there were some issues with
18 that, and then case advisory notes in the system were not
19 really consistently put in.

20 We issued three recommendations to Enforcement
21 and Office of Administrative Hearings to correct these things
22 that we saw and both divisions are currently working to
23 establish the roles and responsibilities to ensure going
24 forward that we have a more consistent process.

25 The second issue we noted was the eLICENSING

1 technology is not being leveraged. eLICENSING is a system
2 of record for Lemon Law complaints, however, when we pulled
3 information from eLICENSING, we found that both divisions
4 were storing information outside of eLICENSING and that it
5 was duplicative of what was inside of eLICENSING. One of
6 the examples we discuss in the report is a referral sheet.

7 The referral sheet, which is when Enforcement sends a
8 complaint to the Office of Administrative Hearings, there
9 were paper copies of it and then it was uploaded into
10 eLICENSING about two to three times. So we made
11 recommendations to Enforcement Division and Office of
12 Administrative Hearings to correct these issues. Both of
13 them are working on them. There are some limitations to the
14 technology but they are working with our IT department to
15 fix those issues.

16 The third result was communication to the
17 customer. So we did note the department has made available
18 to the customer information on the Lemon Law process, however,
19 the information is a big fragmented on our website. We have
20 Lemon Law information on two separate sections, one in the
21 Enforcement section and one in the Office of Administrative
22 Hearings, and the communication is not always consistent.

23 We also found that the department has not been
24 fully leveraging social media to help the consumer understand
25 the Texas Lemon Law program. We did a review of social media,

1 we pulled 27 videos through YouTube that had some relation
2 to Lemon Law, and we found 23 of them were either general
3 automotive discussions or attorneys trying to advertise their
4 legal services for the Lemon Law program which goes into
5 contrast of what the program was really meant for.

6 So we made two recommendations to address these
7 concerns and better inform the consumers. The Office of
8 Administrative Hearings, as well as Enforcement Division,
9 will be working with our Government and Strategic
10 Communications office and/or other people to get better
11 communication out both to the consumer and the manufacturer
12 on the process.

13 MS. HARDY: Remind me again how many Lemon Law
14 cases we get a year.

15 MS. BREWSTER: Madam Chair, if I may?

16 MS. CARAWAY: Yes.

17 MS. BREWSTER: Member Hardy, for FY18 we did 350
18 where they actually went to hearing.

19 MS. HARDY: Okay. Actually went to hearing.

20 MS. BREWSTER: Yes, ma'am.

21 MS. HARDY: Is that normal? Is that a normal
22 year?

23 MS. BREWSTER: Roughly, yes, around the mid 300
24 mark.

25 MS. MENJIVAR-SUDDEATH: Since 1993 we've had

1 about 17,000 complaints overall, so it's not a large
2 percentage of what the department does but it is a very visible
3 part that impacts consumers.

4 The final issue is conflict of interest. We
5 didn't identify any concerns with conflict of interest, but
6 we do believe because consumers and manufacturers are
7 involved, it would be best to have a formal process to document
8 any concerns with conflict of interest. This would ensure
9 that everyone is aware that everyone goes through some review
10 of conflict of interest to ensure that they are able to provide
11 the most equitable resolution possible.

12 The other thing we noted is that one of the statutes
13 actually requires the chief hearing officer to listen to all
14 appeals which is problematic because we only have two hearing
15 officers and the chief hearing officer conducts hearings,
16 and so there are sometimes where a case that he has heard
17 has come up for appeal and he has to render his own decision
18 on whether to appeal or not. And we did note one in our sample,
19 we did pull one where the chief hearing officer did his own
20 appeal. We found no issues with the way he handled it, but
21 again, from a perception issue, it's not the best thing.

22 So we did make three recommendations to address
23 these concerns. One of them has been fully implemented, the
24 Office of Administrative Hearings has already updated their
25 documents to include information on the conflict of interest.

1 One will take a bit longer to do because it is a legislative
2 change, so the legislature may choose not to do that but we
3 still wanted to at least put it out there.

4 Any questions on the report?

5 (No response.)

6 MS. MENJIVAR-SUDDEATH: Then we'll go to one of
7 our other items which is the FY 2019 first quarter followup.
8 That is on page 142 of your board book.

9 The internal audit followup is something we
10 started about a year ago. We follow up on a quarterly basis
11 on internal audit recommendations, and this one includes audit
12 recommendations that were either due or submitted to us from
13 September 1 through November 30, 2013. In that time period
14 we reviewed nine audit recommendations from four audit
15 reports, with six of them having a high priority and three
16 of them having a low priority. And the definition of what
17 constitutes a high priority and a low priority are on page
18 143 of your board book.

19 What we found is six recommendations were fully
20 implemented, including all of the low priorities and half
21 of the high priorities that had been implemented, so that
22 gave us an implementation rate of 67 percent for the first
23 quarter. The remaining three recommendations that stayed
24 open, two of them have already been resubmitted for
25 implementation and we're in the process of reviewing those.

1 And this chart just kind of gives you which
2 recommendations from which reports were fully implemented.

3 Something to note that recommendations are being implemented
4 within 17 days of the estimated implementation date which,
5 colloquially, my staff and I were talking, is probably one
6 of the best rates we've seen and time frames with it.

7 Something else to note, the Texas DMV Fund audit,
8 there was one recommendation to monitoring production
9 changes. Finance and Administrative Services Division said
10 that they would implement this by December 31, 2018. They
11 actually implemented by September 13 which was 109 before
12 the due date.

13 And then from there we'll move on to our current
14 engagements which include four, and those are found, the
15 advisory service agreements as well as the engagement
16 memorandums begin on page 146.

17 So the first engagement is the enterprise project
18 management advisory service which was on the fiscal year 2019
19 audit plan. This advisory service is to evaluate the current
20 project management governance structure of the Information
21 Technology Services Division through facilitation and
22 research. We're in the planning part of this engagement but
23 we anticipate finishing this by May 2019.

24 The second engagement is the information security
25 risk management audit. Again, this was also on our fiscal

1 year 2019 plan. The audit objective is to determine whether
2 the department has sufficient processes in place to identify
3 and assess security threats. We have move on to field work
4 in this audit and anticipate releasing the report in May 2019.

5 Due to the nature of the subject, this will be issued as
6 a confidential audit, so that means we'll be discussing this
7 in executive session when we release the report.

8 The third is the project and contract management
9 audit. Now, this was not on the audit plan, however, the
10 board had approved additional hours for us to do if any risk
11 came out through the year we could adapt the plan. This was
12 also one of our higher risk areas that we had already
13 identified but it was a contingency audit.

14 The audit objectives are to determine whether the
15 procurement and contract management processes are achieving
16 desired outcomes. We are in the planning phase of this.
17 This is going to take a little bit longer because the same
18 team that is working on the enterprise project management
19 advisory service is working on this engagement, and this is
20 more detailed and so we anticipate releasing this in August
21 2019.

22 The final one is the accounts receivable advisory
23 services. Similar to the procurement and contract management
24 audit, we added this on to the audit plan. We are in the
25 planning stages of this engagement and we do anticipate this

1 going on until August 2019. The advisory service is with
2 the Finance and Administrative Services Division and it's
3 to evaluate the accounts receivable function within the
4 department.

5 Any questions on our current engagements?

6 (No response.)

7 MS. MENJIVAR-SUDDEATH: Final is the external
8 coordination efforts. There's four items we're monitoring
9 or working on. The first is the Federal Highway
10 Administration was to conduct a review of the heavy vehicle
11 use tax. It was initially supposed to be done in November,
12 but it's been delayed. We don't have a new date; once we
13 have a new date, we'll provide that information.

14 The second is the State Office of Risk Management
15 conducted a field visit to the Houston Regional Service Center
16 to review safety items. This was done in October. They
17 issued three recommendations related to safety. All those
18 have already been corrected and Internal Audit has verified
19 that they have been corrected.

20 The next item is the State Auditor's Office is
21 conducting an audit on contract management. They have
22 actually issued the draft report to us. We're in the process
23 of reviewing that and anticipate that the report will be
24 released within two weeks or so, and you will be copied.
25 I believe you've already received some correspondence on the

1 report, you'll probably receive the actual copy of the report
2 once it's out.

3 The final item is the fiscal year 2019 quarter
4 one coordination letter. This is a letter we send to the
5 State Auditor's Office to provide our written response to
6 the 12 State Auditor Hotline complaints we received in the
7 first quarter, as well as six items that we're currently
8 working on

9 And that concludes my presentation. Any
10 questions?

11 MR. PREWITT: No. Great job.

12 MS. MENJIVAR-SUDDEATH: Thank you.

13 MS. CARAWAY: Good job. Thank you very much,
14 Derrick and Sandra.

15 If we have no other business from any of the
16 members, I would like to entertain a motion to adjourn.

17 MS. HARDY: I motion that we adjourn.

18 MS. CARAWAY: I have a motion by Kate Hardy.

19 MR. PREWITT: I'll second.

20 MS. CARAWAY: And a second by John Prewitt.

21 Anybody opposed?

22 (General laughter.)

23 MS. CARAWAY: I have a motion and a second. All
24 those in favor?

25 (A chorus of ayes.)

1 MS. CARAWAY: Okay. We are adjourned at
2 3:01 p.m. Thank you.

3 (Whereupon, at 3:01 p.m., the meeting was
4 adjourned.)

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C E R T I F I C A T E

MEETING OF: TxDMV Finance & Audit Committee
LOCATION: Austin, Texas
DATE: February 6, 2019

I do hereby certify that the foregoing pages, numbers 1 through 45, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Motor Vehicles.

DATE: February 11, 2019

/s/ Nancy H. King
(Transcriber)

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