AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM
AUSTIN, TEXAS 78731
THURSDAY, FEBRUARY 4, 2016
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. The Board reserves the right to discuss any items in executive session where authorized by the Open Meetings Act.

1. CALL TO ORDER
   A. Roll Call and Establishment of Quorum
   B. Public Comment
   C. Comments, Announcements, and Action from Chair, Board Members, and Executive Director

1. Executive Director Reports - Whitney Brewster
   a. Quarterly Report on Key Performance Indicator Measures
   b. Texas Veterans Commission Recognition of Special Plates Staff
   c. Agency Anti-Fraud, Waste, and Abuse Initiatives
   d. Registration and Titling System (RTS) Refactoring
   e. 2016 Survey of Employee Engagement Response
   f. Performance Quality Recognition Program

2. Chair Reports - Laura Ryan
   a. Motor Vehicle License Advisory Committee Member Appointments
   b. Chair’s Report to the Governor on the State of Affairs of the Texas Department of Motor Vehicles
   c. Appointment of a Member to Act in the Absence of the Chair and the Vice Chair Pursuant to Transportation Code, §1001.023(b)(9)

2. EXECUTIVE SESSION
   A. Section 551.071 - Consultation with and advice from legal counsel regarding:
      1. pending or contemplated litigation, or a settlement offer;
      2. 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
      3. any item on this agenda.
B. Section 551.074 - Personnel matters.
Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel.

3. ACTION ITEMS FROM EXECUTIVE SESSION

4. REPORTS

A. Finance & Audit


2. FY 2015 End of Year Reports - Linda M. Flores and Sergio Rey
   a. Annual Financial Report
   b. Annual Report of Nonfinancial Data

3. Internal Audit Division Status - Sandra Vice
   a. Internal Audit Division Status Report - February 2016
   b. Report on Implementing an Anti-Fraud, Waste, and Abuse Program, TxDMV 16-2

B. Projects & Operations - Member Blake Ingram

1. Enterprise Projects Quarterly Report - Judy Sandberg


C. Legislative & Public Affairs - Caroline Love

1. 84th Legislative Implementation

2. Looking Ahead: 85th Legislature

5. ACTION ITEMS

A. Contracts - Jimmy Archer


2. Explore Contract for Texas International Registration Plan (TxIRP), Performance and Registration Information Systems Management (PRISM), and Fleet Registration (Renewal)

B. Specialty Plate Design - Jeremiah Kuntz

Childhood Cancer Awareness (New Non-Vendor Plate)
C. **Contested Case - Proposal for Decision**

Denial of Dealer License Under Occupations Code, Section 53.025 and 43 Texas Administrative Code, Section 215.88(b)(1) and (i)(1) – Daniel Avitia and Michael Cady


D. **Rules**

1. **Adoption of Rules under Title 43, Texas Administrative Code**
   a. **Chapter 206, Management** - David D. Duncan
      - Section 206.93, Advisory Committee Operations and Procedures
      - New Section 206.94, Household Goods Rules Advisory Committee (HGRAC)
      - New Section 206.95, Motor Vehicle License Advisory Committee (MVLAC)
      - (Proposal Published December 4, 2015 - 40 TexReg 8746)

   b. **Chapter 210, Contract Management** - Linda M. Flores and David Chambers
      - New Section 210.3, Enhanced Contract Monitoring Program
      - (Proposal Published December 4, 2015 - 40 TexReg 8747)

   c. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz
      - Section 217.3, Motor Vehicle Titles
      - (Proposal Published December 4, 2015 - 40 TexReg 8748)

2. **Proposal of Rules under Title 43, Texas Administrative Code**

   **Chapter 215, Motor Vehicle Distribution** - David D. Duncan, Daniel Avitia, and Bill Harbeson
   - Repeals/Amendments
   - New Section 215.160, Duty to Identify Motor Vehicles Offered for Sale as a Rebuilt

6. **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 Stacy Steenken by telephone at (512) 302-2380.

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

CERTIFYING OFFICIAL: David D. Duncan, General Counsel, (512) 465-5665.
Texas Department of Motor Vehicles Key Performance Indicator Dashboard – October-December 2015 (4th Q)

3 Strategic Goals

- Performance Driven
  - Effective and efficient services
  - Implement appropriate best practices
- Optimized Services and Innovation
  - Continuous business process improvement and realignment
  - Executive ownership and accountability for results
  - Organizational culture of continuous improvement and creativity
- Customer Centric
  - Focus on the internal customer
  - Increase transparency with external customers
  - Excellent service delivery

Balanced scorecard scale 1-10 for the three strategic goals

<table>
<thead>
<tr>
<th>Series Color</th>
<th>Scorecard Object</th>
<th>Organization</th>
<th>Series</th>
<th>1st Q</th>
<th>2nd Q</th>
<th>3rd Q</th>
<th>4th Q</th>
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</thead>
<tbody>
<tr>
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<td>Performance Driven</td>
<td>TxDMV Agency-wide</td>
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<td>5.61</td>
<td>5.83</td>
<td>5.71</td>
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<tr>
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<td>Optimized Services and Innovation</td>
<td>TxDMV Agency-wide</td>
<td>Score</td>
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<tr>
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<td>Customer Centric</td>
<td>TxDMV Agency-wide</td>
<td>Score</td>
<td>3.95</td>
<td>4.85</td>
<td>3.96</td>
<td>3.62</td>
</tr>
</tbody>
</table>

Balanced scorecard scale 1-10 for the three strategic goals
KPI Data by Division 1st – 4th Quarters 2015

Enforcement

Vehicle Titles and Registration

Motor Carrier

Motor Vehicle

Agenda Briefing Notebook
To: Texas Department of Motor Vehicles Board

From: Daniel Avitia, Director, Motor Vehicle Division

Agenda Item: 1.C.2. a.

Subject: Motor Vehicle License Advisory Committee Member Appointments

Executive Summary

Agenda Item No. 1. C. (2) (a) relates to the selection of new committee members for the Motor Vehicle License Advisory Committee. During the November 13, 2015 open meeting, the Board authorized the continued existence of the Motor Vehicle License Advisory Committee and elected to consider selection of new committee members during a future open meeting.

After conferring with industry stakeholders, the Executive Director presents the following Motor Vehicle License Advisory Committee membership configuration for your consideration:

- Board Member Laura Ryan
- Board Member Blake Ingram
- Board Member Raymond Palacios
- Joey Blackmon of Ancira Enterprises, nominated by the Texas Automobile Dealer Association
- Brent Rhodes of Fiesta Motors, nominated by the Texas Independent Automobile Dealers Association
- Lloyd “Buddy” Ferguson of the Strasburger & Price Law Firm, nominated by the Auto Alliance
- Mike Regan of Crestview RV, nominated by the Texas Recreational Vehicle Association
- Bob Kee of Destination Cycle Sports, nominated by the Texas Motorcycle Dealer Association
- Bruce Ormand of A1 Part Smart, nominated by the Texas Automotive Recyclers Association

The Advisory Committee will select a chair or presiding officer from among the membership named by the Board. At this time, the Executive Director asks the Board to approve this selection of committee members and to adopt the attached committee resolution.
FY 2016 Financial Summary
for the 1st Quarter Ending
November 30, 2015

Finance and Administrative Services Division
Year-to-Date revenue collections have decreased 1.9% or $7.9 million over the same period last year.

- The majority of the decrease (2.3%) is attributed to Oversize/Overweight revenue as a result of decreased permitting and a downturn in the oil, natural gas and related industries.

- There was a slight increase (0.4%) in revenue collections associated with federal interstate or international commerce (Unified Carrier Registration fees) and intrastate motor carrier application and credentialing fees.

- The remaining revenue categories of title revenue, registration revenue, business dealer license revenue and miscellaneous revenue are flat compared to the same period last year.
## My Plates

### Original Contract Cumulative Amount to GR

<table>
<thead>
<tr>
<th>Month</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nov-09</td>
<td>$0</td>
</tr>
<tr>
<td>Dec-09</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Jan-10</td>
<td>$10,000,000</td>
</tr>
<tr>
<td>Feb-10</td>
<td>$15,000,000</td>
</tr>
<tr>
<td>Mar-10</td>
<td>$20,000,000</td>
</tr>
<tr>
<td>Apr-10</td>
<td>$25,000,000</td>
</tr>
<tr>
<td>May-10</td>
<td>$30,000,000</td>
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</tbody>
</table>

### New Contract Cumulative Deposits to GR

<table>
<thead>
<tr>
<th>Month</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nov-14</td>
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</tr>
<tr>
<td>Dec-14</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>Jan-15</td>
<td>$6,000,000</td>
</tr>
<tr>
<td>Feb-15</td>
<td>$9,000,000</td>
</tr>
<tr>
<td>Mar-15</td>
<td>$12,000,000</td>
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<tr>
<td>Apr-15</td>
<td>$15,000,000</td>
</tr>
<tr>
<td>May-15</td>
<td>$18,000,000</td>
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</table>

### Summary

<table>
<thead>
<tr>
<th>Description</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cumulative Deposits Original Contract (through November 2014)</td>
<td>$27,334,769</td>
</tr>
<tr>
<td>New Contract Cumulative Deposits to GR through 11/30/15*</td>
<td>$10,125,348</td>
</tr>
<tr>
<td>New Order Deposits to GR</td>
<td>$5,058,060</td>
</tr>
<tr>
<td>Renewal Deposits to GR</td>
<td>$5,067,288</td>
</tr>
</tbody>
</table>

* Figures exclude refund data and are subject to minimal revision.
As of the end of the first quarter of 2016, $77 million (40%) of the total revised budget of $196 million remains. The majority of the remaining budget is in Professional Fees, Other Expenses. The Other Expenses category includes, Travel, Fees and Charges, Rent, Advertising, Training, Utilities, Maintenance and Repair, and Other Capital.
Capital Projects

- Approximately half of the expenses for the first quarter are for the Data Center Consolidation (DCS) project. The year to date total of $1.4 million includes $500,000 in one-time September charges.

- Although expenses for the RTS project total approximately $400,000 for the first quarter, year end expenses are expected to be $27 million.

- Of the total $26.5 million encumbered as of the end of the first quarter, the contract with Deloitte for RTS Refactoring is the largest contributor ($19 million).

- Funding has also been encumbered for contract services for the LACE project ($5.2 million) and the WebDealer/E-Titles project ($1.4 million).
Questions?
FY 2016 Financial
Summary for the 1st Quarter
ending November 30, 2015

By: Finance and Administrative Services Division
February 4, 2016
Revenues:
Year-to-date revenue collections decreased 1.9% or $7.9 million over the same period last year.
The majority of the decrease (2.3%) is attributed to Oversize/Overweight revenue as a result of decreased permitting and a downturn in the oil, natural gas and related industries. There was a slight increase (0.4%) in revenue collections associated with federal interstate or international commerce (Unified Carrier Registration fees) and intrastate motor carrier application and credentialing fees. The remaining revenue categories of title revenue, registration revenue, business dealer license revenue and miscellaneous revenue are flat versus year-to-date fiscal year 2015.

Expenditures:
Year-to-date expenditures through November 30, 2015 total $22,799,275. The significant expenditure categories are detailed below:

- **Salaries** ($9.5 million) – As of November 30, 2015, there were 716 filled positions and 47 vacancies.
- **Purchased Contract Services** ($4.6 million) – Primarily for Huntsville license plate production ($3.0 million), MyPlates Rider 3 ($794,949), and registration renewal and specialty plate mailing ($803,847).
- **Professional Fees** ($2.7 million) – The majority of these expenses are DCS ($1.5 million) and RTS Refactoring ($559,823).
- **Postage** ($2.2 million) – Print Mail Pro postage permit for registration renewal mailings.
- **Reproduction & Printing** ($1.0 million) – Primarily for the printing of titles ($505,533), and for title paper, envelopes, and registration inserts ($480,013).

Encumbrance Summary:
As of November 30, 2015, encumbrances total $95.8 million. The majority of the encumbrances (96%) are in Capital, primarily RTS refactoring, Licensing, Administration, Consumer Affairs and Enforcement (LACE), and Application Migration and Server Transformation (AMSIT); Vehicle Titles and Registration (VTR) for postage and registration decals; Finance and Administrative Services (FAS) for the production of license plates; and Automobile Burglary and Theft Prevention Authority (ABTPA) for grants.

Details of the larger encumbrances by budget category are as follows:

- **Professional Fees and Services** ($38.5 million) – RTS refactoring and LACE Replacement. Also included are encumbrances for project management services to implement the AMSIT project, which will separate TxDMV applications and related information technology infrastructure components from the TxDOT network, and with the Department of Information Resources for Data Center Services.
- **Purchased Contract Services** ($23.4 million) – License plates production and imaging of registration and title documents.
- **Freight** ($0.1 million) – License plates transport to the counties.
- **Maintenance and Repair** ($6.4 million) – Software maintenance related to RTS refactoring.
- **Grants** ($13.7 million) – ABTPA grants.

Comparison of Fiscal Year 2016 to Prior Year:
Expenditures for fiscal year 2016 are 8% lower than those in the same period last year due to a one-time cost incurred in fiscal year 2015 for Centralized Accounting and Payroll/Personnel System (CAPPs) implementation. This project was completed in May 2015.

Encumbrances are 71% higher due to increased funding for license plate production. Also, annualized encumbrances for ABTPA grants and postage were completed in the first quarter in 2016; in prior years, the grant encumbrances were processed later in the year.
**TxDMV Deposits to Fund 1 & Fund 6**

### TxDMV Total Deposits

<table>
<thead>
<tr>
<th></th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>Year to Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2014</td>
<td>$127,057,139</td>
<td>$130,572,410</td>
<td>$114,299,710</td>
<td>$371,929,250</td>
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<tr>
<td>FY 2015</td>
<td>$154,248,407</td>
<td>$145,543,747</td>
<td>$122,937,500</td>
<td>$422,729,654</td>
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<td>FY 2016</td>
<td>$148,564,130</td>
<td>$142,301,570</td>
<td>$123,921,740</td>
<td>$414,787,440</td>
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### TxDMV Deposits to Fund 1

<table>
<thead>
<tr>
<th></th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>Year to Date</th>
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</thead>
<tbody>
<tr>
<td>FY 2014</td>
<td>$7,804,365</td>
<td>$9,390,303</td>
<td>$9,125,763</td>
<td>$26,400,432</td>
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<td>FY 2015</td>
<td>$20,334,832</td>
<td>$22,444,367</td>
<td>$17,292,951</td>
<td>$60,072,150</td>
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<tr>
<td>FY 2016</td>
<td>$18,029,403</td>
<td>$19,477,300</td>
<td>$17,795,400</td>
<td>$55,302,103</td>
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### TxDMV Deposits to Fund 6

<table>
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<th></th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>Year to Date</th>
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<tbody>
<tr>
<td>FY 2014</td>
<td>$119,172,764</td>
<td>$121,182,107</td>
<td>$105,173,947</td>
<td>$345,528,818</td>
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<td>FY 2015</td>
<td>$133,913,575</td>
<td>$123,099,380</td>
<td>$105,644,548</td>
<td>$362,657,504</td>
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<tr>
<td>FY 2016</td>
<td>$130,534,727</td>
<td>$122,824,209</td>
<td>$106,126,340</td>
<td>$359,485,337</td>
</tr>
</tbody>
</table>
MyPlates Analysis
Original Contract vs. New Contract

Original Contract Cumulative Amount to GR

New Contract Cumulative Deposits to GR

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</tr>
</tbody>
</table>

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MyPlates Analysis
Original Contract vs. New Contract

New Order GR Deposits

Renewal GR Deposits
## Statement of Revenues and Expenditures through November 30, 2015

### Revenues:

<table>
<thead>
<tr>
<th>Description</th>
<th>FY 2016 YTD Projected Revenue</th>
<th>FY 2016 YTD Actual Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motor Vehicle Certificates</td>
<td>$19,283,090</td>
<td>$19,351,920</td>
</tr>
<tr>
<td>Motor Vehicle Registration Fees</td>
<td>$351,503,554</td>
<td>$349,507,999</td>
</tr>
<tr>
<td>Motor Carrier - Oversize / Overweight</td>
<td>$43,499,638</td>
<td>$39,214,121</td>
</tr>
<tr>
<td>Commercial Transportation Fees</td>
<td>$1,489,252</td>
<td>$3,255,514</td>
</tr>
<tr>
<td>Motor Vehicle Business Licenses</td>
<td>$1,689,641</td>
<td>$1,657,698</td>
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<tr>
<td>Miscellaneous Revenue</td>
<td>$1,173,451</td>
<td>$1,800,188</td>
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<tr>
<td><strong>Total DMV Revenue</strong></td>
<td>$418,638,626</td>
<td>$414,787,440</td>
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</table>

### Expenditures:

<table>
<thead>
<tr>
<th>Description</th>
<th>2016 Approved Budget</th>
<th>FY 2016 YTD Expenditures</th>
<th>FY 2016 Available Budget</th>
<th>FY 2016 Encumbrances</th>
<th>FY 2016 Available Budget</th>
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</thead>
<tbody>
<tr>
<td>Salaries and Wages</td>
<td>$40,676,733</td>
<td>$9,473,469</td>
<td>$31,203,264</td>
<td>-</td>
<td>$31,203,264</td>
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<td>Benefit Replacement Pay</td>
<td>$112,970</td>
<td>$11,121</td>
<td>$101,849</td>
<td>-</td>
<td>$101,849</td>
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<td>Other Personnel Costs</td>
<td>$1,176,439</td>
<td>$293,556</td>
<td>$882,883</td>
<td>-</td>
<td>$882,883</td>
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<td>Professional Fees and Services</td>
<td>$56,755,705</td>
<td>$2,671,678</td>
<td>$54,084,027</td>
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<td>Fuels &amp; Lubricants</td>
<td>$110,000</td>
<td>$7,090</td>
<td>$102,910</td>
<td>$60,251</td>
<td>$42,659</td>
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<td>Consumable Supplies</td>
<td>$1,239,644</td>
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<td>$992,743</td>
<td>$137,411</td>
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<td>Utilities</td>
<td>$4,815,054</td>
<td>$725,964</td>
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<td>$631,003</td>
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<td>Travel In-State</td>
<td>$435,401</td>
<td>$52,883</td>
<td>$382,518</td>
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<td>$382,518</td>
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<td>Travel Out-of-State</td>
<td>$56,750</td>
<td>$8,879</td>
<td>$47,871</td>
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<td>$47,871</td>
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<tr>
<td>Rent - Building</td>
<td>$933,671</td>
<td>$203,698</td>
<td>$729,973</td>
<td>$425,861</td>
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<tr>
<td>Rent - Machine and Other</td>
<td>$328,227</td>
<td>$50,651</td>
<td>$277,576</td>
<td>$249,260</td>
<td>$28,316</td>
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<tr>
<td>Advertising &amp; Promotion</td>
<td>$559,300</td>
<td>$13,881</td>
<td>$545,419</td>
<td>$86,623</td>
<td>$458,796</td>
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<td>Purchased Contract Services</td>
<td>$36,136,724</td>
<td>$4,569,375</td>
<td>$31,567,349</td>
<td>$23,436,341</td>
<td>$8,131,008</td>
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<td>Computer Equipment Software</td>
<td>$928,989</td>
<td>$220,556</td>
<td>$708,433</td>
<td>$150,768</td>
<td>$557,665</td>
</tr>
<tr>
<td>Fees &amp; Other Charges</td>
<td>$1,211,374</td>
<td>$241,080</td>
<td>$970,294</td>
<td>$46,309</td>
<td>$923,985</td>
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<tr>
<td>Freight</td>
<td>$1,175,241</td>
<td>$166,900</td>
<td>$1,008,251</td>
<td>$982,007</td>
<td>$26,244</td>
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<td>Maintenance &amp; Repair</td>
<td>$8,707,296</td>
<td>$341,746</td>
<td>$8,365,550</td>
<td>$6,446,341</td>
<td>$1,919,209</td>
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<td>Memberships &amp; Training</td>
<td>$373,490</td>
<td>$81,443</td>
<td>$292,047</td>
<td>$5,151</td>
<td>$286,896</td>
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<tr>
<td>Other Expenses</td>
<td>$3,955,292</td>
<td>$36,239</td>
<td>$3,919,053</td>
<td>$55,480</td>
<td>$3,863,573</td>
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<td>Postage</td>
<td>$10,036,842</td>
<td>$2,234,537</td>
<td>$7,802,305</td>
<td>$6,476,696</td>
<td>$1,325,609</td>
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<td>Reproduction &amp; Printing</td>
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<td>$1,006,917</td>
<td>$5,274,468</td>
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<td>Services</td>
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<td>$140,620</td>
<td>$785,246</td>
<td>$630,195</td>
<td>$155,051</td>
</tr>
<tr>
<td>Grants</td>
<td>$13,954,270</td>
<td>-</td>
<td>$13,954,270</td>
<td>$13,650,000</td>
<td>$304,270</td>
</tr>
<tr>
<td>Other Capital</td>
<td>$5,074,445</td>
<td>-</td>
<td>$5,074,445</td>
<td>$30,307</td>
<td>$5,044,136</td>
</tr>
<tr>
<td><strong>Total YTD Expenditures</strong></td>
<td>$195,961,106</td>
<td>$22,799,274</td>
<td>$173,161,832</td>
<td>$95,780,643</td>
<td>$77,381,189</td>
</tr>
</tbody>
</table>

### Budget Adjustments

- Adjusted Automation UB: $(2,805,969)\(^{(1)}\)
- Adjustment to 2.5% Salary Increase Estimate: $(105,294)\(^{(2)}\)
- Adjustment to Benefit Replacement Pay (BR): $(8,216)\(^{(2)}\)

Total adjustment to original approved budget of $198.9 million: $(2,919,479)\(^{(2)}\)

1. Unexpended balance amount adjusted to reflect payments for the RTS project that were expected to be paid in 2016 funds; however, the payments were processed at the end of 2015.
2. The amounts for these items were estimates, adjustments were made to reflect the actual amount budgeted.

### YTD November Net Surplus (Deficit): $391,988,166

### Comparison to Prior Year

<table>
<thead>
<tr>
<th>Description</th>
<th>Adjusted Fiscal Year 2015</th>
<th>Adjusted Fiscal Year 2016</th>
<th>Percent Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approved Adjusted Budget</td>
<td>$168,870,078</td>
<td>$195,961,106</td>
<td>16.04%</td>
</tr>
<tr>
<td>Year-to-Date Expenditures</td>
<td>$24,974,223</td>
<td>$22,799,274</td>
<td>-8.71%</td>
</tr>
<tr>
<td>Available Budget</td>
<td>$143,895,855</td>
<td>$173,161,832</td>
<td>20.34%</td>
</tr>
<tr>
<td>Encumbrances</td>
<td>$55,810,223</td>
<td>$95,780,642</td>
<td>71.62%</td>
</tr>
<tr>
<td><strong>Available Budget</strong></td>
<td>$88,085,632</td>
<td>$77,381,190</td>
<td>-12.15%</td>
</tr>
</tbody>
</table>
Capital Project Status

Technology Replacements and Upgrades - County Support
This project consists of funding to deploy and maintain printers, computers, monitors, laptops, cash drawers, etc. utilized at county Tax Assessor/Collector offices throughout the state. A major initiative in FY 2016 will be a refresh of technology at the county offices; this initiative was formally approved by the Governance Team as a project and a project manager has been appointed for the project. The technology refresh project will begin in FY 2016 and continue into FY 2017.

TxDMV Automation System
The TxDMV 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.

The majority of the Automation expenditures are for the RTS Refactoring Project, which is estimated to be $27.0 million at year end. The Point of Sale (POS) component has been implemented in all 254 counties, as Bexar, Dallas, and Harris counties were completed in early October and the migration of RTS off the mainframe onto DCS-based servers was completed in November. The overall schedule for the project is currently being updated and contract adjustments for additional contractor services were implemented in November.

A purchase order in the amount of $4.3 million for FY 2016 was issued to Deloitte for the Licensing, Administration, Consumer Affairs, and Enforcement (LACE) System Replacement. Funding in 2016 will also provide for the independent verification & validation (IV&V) contract for the LACE Project.

The Web Dealer Project is continuing with dealer implementation and enhancement testing. The Commercial Fleet module deployed in early May 2015. The next phase to be completed is Salvage, which is in development status and scheduled for deployment in May 2016. Web Dealer is also being evaluated for other enhancement opportunities in the future.

The second phase of single sticker continues this fiscal year. The Automation funding for this project is $1.2 million, with the majority of that cost to be utilized for the TxDMV International Registration Plan (IRP) system upgrade, which will implement an automated inspection process to replace the manual verification process for commercial fleet services.

Growth and Enhancement – Agency Operations Support
This budget provides funds to acquire hardware/software to support agency operations. Expenditures to date include miscellaneous computer equipment, computer monitors, and security software. Encumbrances and pre-encumbrances are for miscellaneous computer equipment, laptop and desktop computers, cabling services, and generator installation.

Commercial Vehicle Information Systems and Networks (CVISN) Grant
The Commercial Vehicle Information Systems and Networks (CVISN) is a federal grant that focuses on safety enforcement on high-risk operators; integrating systems to improve the accuracy, integrity, and verifiability of credentials; improving efficiency through electronic screening and enabling online application and issuance of credentials. $1.1 million was carry forwarded from FY 2015 to FY 2016. The Motor Carrier Division (MCD) works with three other state agencies – Texas Department of Transportation (TxDOT), Texas Department of Public Safety (DPS), and State Comptroller – to facilitate the grant, with expenditures planned for TxCVIEW maintenance and core augmentation, the ABC Warning Project, and travel. Currently $365,000 is pre-encumbered for TxDOT services and $500,000 is encumbered to Southwest Research Institute (SwRI). The remaining $214,000 is currently unencumbered.

Data Center Services
The Data Center Services (DCS) program enables state agencies to access data center computing as a managed service. State agencies are billed for the amount of services consumed. Expenditures totaled $1.4 million through the end of November. The year-to-date total reflects only the payment for September 2015 charges, as October 2015 charges were paid on December 1st and are not included in the 1st Quarter Summary Budget information. Total projected DCS charges for FY 2016 are approximately $9.1 million. The total DCS budget of $9.8 million does not include the projected $1.5 million payment to TxDOT for DCS charges, which will be paid from IT Operating in FY 2016.

Relocation of Regional Service Centers
This project provides funding in FY 2016 for the relocation of Regional Service Centers from TxDOT facilities. There are no expenditures or encumbrances to date. TxDMV staff has begun working with Texas Facilities Commission on stakeholder feedback and preliminary space planning. The Regional Service Centers at San Antonio, Pharr, and Corpus Christi have been identified as the facilities to be relocated.

Application Migration & Server Information Transformation (AMSIT)
The Application Migration and Server Information Transformation project will identify shared assets, applications, and servers to be relocated from their current position to satisfy the goal of establishing a standalone agency environment. Although this project is related to Automation, it is a separate capital project. Funds have been encumbered for project management and for the solicitation of a vendor to provide overall project implementation.
# Statement of Capital Project Expenditures through November 30, 2015

## Capital Projects

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Migration &amp; Server Transformation (AMSIT)</td>
<td>$7,353,955</td>
<td>$7,353,955</td>
<td>$7,295,585</td>
<td>$58,370</td>
<td></td>
</tr>
<tr>
<td>Commerical Vehicle Information Systems &amp; Network (CVISN)</td>
<td>$1,078,944</td>
<td>$65,032</td>
<td>$1,013,912</td>
<td>$799,477</td>
<td>$214,436</td>
</tr>
<tr>
<td>Data Center Consolidations</td>
<td>$9,080,222</td>
<td>$1,483,313</td>
<td>$7,596,909</td>
<td>$7,596,909</td>
<td>$1</td>
</tr>
<tr>
<td>Growth &amp; Enhancements - Agency Operations Support</td>
<td>$949,498</td>
<td>$92,464</td>
<td>$857,034</td>
<td>$137,912</td>
<td>$719,122</td>
</tr>
<tr>
<td>Technology Replacement &amp; Upgrades - County Support</td>
<td>$5,500,000</td>
<td>$410,012</td>
<td>$5,089,988</td>
<td>$259,290</td>
<td>$4,830,698</td>
</tr>
<tr>
<td>TXDMV Automation System Project</td>
<td>$42,002,453</td>
<td>$686,604</td>
<td>$41,315,849</td>
<td>$26,531,170</td>
<td>$14,784,679</td>
</tr>
<tr>
<td>Regional Office Relocation</td>
<td>$871,500</td>
<td>$871,500</td>
<td>$871,500</td>
<td>$871,500</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$66,836,572</strong></td>
<td><strong>$2,737,425</strong></td>
<td><strong>$64,099,147</strong></td>
<td><strong>$42,620,343</strong></td>
<td><strong>$21,478,804</strong></td>
</tr>
</tbody>
</table>

## PRIOR YEAR:
(for comparative purposes)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Centralized Accounting &amp; Payroll Personnel System (CAPPS)</td>
<td>$3,043,752</td>
<td>$2,303,752</td>
<td>$740,000</td>
<td>$740,000</td>
<td>-</td>
</tr>
<tr>
<td>Commercial Vehicle Information Systems &amp; Network (CVISN)</td>
<td>$453,761</td>
<td>$107,918</td>
<td>$345,843</td>
<td>$263,843</td>
<td>$82,000</td>
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<tr>
<td>Data Center Consolidations</td>
<td>$3,992,695</td>
<td>$1,340,074</td>
<td>$2,652,621</td>
<td>$2,648,075</td>
<td>$4,546</td>
</tr>
<tr>
<td>Growth &amp; Enhancements - Agency Operations Support</td>
<td>$1,208,468</td>
<td>$246,892</td>
<td>$961,576</td>
<td>$114,432</td>
<td>$847,144</td>
</tr>
<tr>
<td>Regional Office Security</td>
<td>$240,000</td>
<td>$240,000</td>
<td>$240,000</td>
<td>$240,000</td>
<td>$240,000</td>
</tr>
<tr>
<td>Technology Replacements &amp; Upgrades - County Support</td>
<td>$7,388,472</td>
<td>$482,893</td>
<td>$6,905,579</td>
<td>$1,974,051</td>
<td>$4,931,528</td>
</tr>
<tr>
<td>TXDMV Automation System Project</td>
<td>$29,389,243</td>
<td>$943,172</td>
<td>$28,446,071</td>
<td>$16,553,580</td>
<td>$11,892,491</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$45,716,391</strong></td>
<td><strong>$5,424,701</strong></td>
<td><strong>$40,291,690</strong></td>
<td><strong>$22,293,980</strong></td>
<td><strong>$17,997,710</strong></td>
</tr>
</tbody>
</table>
Statement of TxDMV Automation Project Expenditures through November 30, 2015

**TxDMV Automation Project Appropriations**  

<table>
<thead>
<tr>
<th>Description</th>
<th>FY 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Estimated Unexpended Balance Carry-Forward from FY 2015</td>
<td>$28,730,221</td>
</tr>
<tr>
<td>Unexpended Balance Adjustments</td>
<td>$(2,805,969)</td>
</tr>
<tr>
<td>Fiscal Year 2016 Appropriation</td>
<td>$16,078,201</td>
</tr>
<tr>
<td><strong>Total Automation Appropriations</strong></td>
<td><strong>$42,002,453</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TxDMV Automation</th>
<th>2016 Adjusted Budget</th>
<th>2016 YTD Expenditures</th>
<th>2016 YTD Encumbrances</th>
<th>Available Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>813003 HQ Communication Infrastructure</td>
<td>$433,934</td>
<td>$60,355</td>
<td>$151,318</td>
<td>$222,262</td>
</tr>
<tr>
<td>813010 RIS Refactoring</td>
<td>$27,031,468</td>
<td>$440,652</td>
<td>$18,852,197</td>
<td>$7,738,619</td>
</tr>
<tr>
<td>813013 RIS Data Purification/Name Address</td>
<td>$130,000</td>
<td>$11,560</td>
<td>$10,795</td>
<td>$107,645</td>
</tr>
<tr>
<td>813015 WebDealer E-Titles</td>
<td>$3,416,584</td>
<td>$148,994</td>
<td>$1,407,906</td>
<td>$1,859,684</td>
</tr>
<tr>
<td>813020 LACE</td>
<td>$8,660,994</td>
<td>$85</td>
<td>$5,192,101</td>
<td>$3,468,808</td>
</tr>
<tr>
<td>815028 Single Sticker Phase II</td>
<td>$1,200,000</td>
<td>$24,957</td>
<td>$916,854</td>
<td>$258,189</td>
</tr>
<tr>
<td>84BDGT Unallocated</td>
<td>$1,129,472</td>
<td>-</td>
<td>-</td>
<td>$1,129,472</td>
</tr>
<tr>
<td><strong>TxDMV Automation Total</strong></td>
<td><strong>$42,002,453</strong></td>
<td><strong>$686,604</strong></td>
<td><strong>$26,531,170</strong></td>
<td><strong>$14,784,679</strong></td>
</tr>
</tbody>
</table>
Texas Department of Motor Vehicles
HELPING TEXANS GO. HELPING TEXAS GROW.

Annual Financial Report
Fiscal Year 2015

Presented By: Finance & Administrative Services Division
Exhibit I – Statement of Net Assets (Balance Sheet)

Fiscal Year 2014
- Total Assets, $156,764,053
- Fund Balance, $136,776,740
- Adjusted Liabilities, $19,987,313

Fiscal Year 2015
- Total Assets, $163,139,648
- Fund Balance, $140,216,046
- Adjusted Liabilities, $22,923,602
Exhibit II – Statement of Revenue, Expenditures and Changes in Net Assets (Income Statement)

Fiscal Year 2014
- License Fees & Permits, $1,480,593,095
- Legislative Appropriations, $117,151,416
- Total Revenue $1,597,911,335

Fiscal Year 2015
- License Fees & Permits, $1,513,894,446
- Legislative Appropriations, $118,082,616
- Total Revenue $1,632,278,845

Fiscal Year 2014
- Professional Fees & Services 17%
- Salaries/Payroll Related 29%
- Other Operating Expenses 26%
- Materials & Supplies 8%
- Print/Reprod 3%
- Repairs & Maint 4%
- Other Expenses 4%
- Total Expenditures $165,111,685

Fiscal Year 2015
- Professional Fees & Services 13%
- Salaries/Payroll Related 33%
- Other Operating Expenses 25%
- Materials & Supplies 9%
- Print/Reprod 4%
- Repairs & Maint 3%
- Other Expenses 4%
- Total Expenditures $152,920,438
Exhibit II – Statement of Revenue, Expenditures and Changes in Net Assets (Income Statement)

Fiscal Year 2014

- Remaining Revenue, $30,706,752
- Total Expenditures, $165,111,685
- Transfer to TxDOT, $1,402,092,898

Fiscal Year 2015

- Remaining Revenue, $3,771,690
- Total Expenditures, $153,900,547
- Transfer to TxDOT, $1,474,606,608
Annual Report of Nonfinancial Data


- Schedules
  - Appropriation Item Transfers
  - Historically Underutilized Businesses Strategic Plan Progress
  - Indirect Cost Schedule
  - Space Occupied
  - Vehicles Purchased
  - Alternative Fuel Program Status
  - Itemized Purchases
  - Professional/Consulting Fees & Legal Services Fees
Nonfinancial Data Highlights

Professional/Consulting Fees & Legal Service Fees

2014 Expenditures by Category

- Information Technology Services: 65%
- Data Processing Services: 13%
- Computer Services-Statewide Tech. Center: 19%
- Other: 3%

2015 Expenditures by Category

- Information Technology Services: 53%
- Computer Services-Statewide Tech. Center: 34%
- Consultant Services - Other: 3%
- Other: 2%

The Other category includes, Consultant Services, Educational/Training Services, Legal Services-Approved by SOAH (State Office of Administrative Hearings) and Professional Services- Other.
Questions?
Annual Financial Report

Fiscal Year Ended
August 31, 2015
Annual Financial Report
Fiscal Year Ended August 31, 2015

Texas Department of Motor Vehicles

Prepared by the
Finance & Administrative Services Division

November 20, 2015
Texas Department of Motor Vehicles Board

Laura Ryan, Chair
Raymond Palacios, Jr., Vice-Chair
Luanne Caraway
Blake Ingram
Guillermo "Memo" Treviño

Marvin Rush
Robert Barnwell, III
John Walker, III
Gary M. Swindle

Whitney H. Brewster
Executive Director

Published and distributed
by the
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas
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</tr>
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<td>Exhibit I Combined Balance Sheet/Statement of Net Assets - Governmental Funds</td>
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<tr>
<td>Exhibit II Combined Statement of Revenues, Expenditures, and Changes in Fund Balances/Statement of Activities - Governmental Funds</td>
<td>4</td>
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<tr>
<td>Exhibit VI Combined Statement of Fiduciary Net Assets - Fiduciary Funds</td>
<td>5</td>
</tr>
<tr>
<td><strong>Notes to the Financial Statements</strong></td>
<td>8</td>
</tr>
<tr>
<td><strong>Combining Financial Statements:</strong></td>
<td></td>
</tr>
<tr>
<td>Exhibit A-1 Balance Sheet - All General and Consolidated Funds</td>
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</tr>
<tr>
<td>Exhibit A-2 Combining Statement of Revenues, Expenditures and Changes in Fund Balances - All General and Consolidated Funds</td>
<td>23</td>
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<td>Exhibit J-1 Combining Statement of Changes in Assets and Liabilities - All Agency Funds</td>
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<tr>
<td><strong>Schedules:</strong></td>
<td></td>
</tr>
<tr>
<td>Schedule 1A Schedule of Expenditures of Federal Awards</td>
<td>28</td>
</tr>
<tr>
<td>Schedule 1B Schedule of State Grant Pass Throughs From/To State Agencies</td>
<td>30</td>
</tr>
</tbody>
</table>
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November 20, 2015

Honorable Greg Abbott, Governor
Honorable Glenn Hegar, Texas Comptroller
Ursula Parks, Director, Legislative Budget Board
John Keel, CPA, State Auditor

Ladies and Gentlemen:

Attached is the Texas Department of Motor Vehicle’s annual financial report for the year ended August 31, 2015, in compliance with Texas Government Code Annotated, Section 2101.011, and in accordance with the requirements established by the Texas Comptroller of Public Accounts.

Due to the statewide requirements embedded in Governmental Accounting Standards Board ( GASB) Statement No. 34, Basic Financial Statements – and Management’s Discussion and Analysis – for State and Local Governments, the Comptroller of Public Accounts does not require the accompanying annual financial report to comply with all the requirements in this statement. The financial report will be considered for audit by the state auditor as part of the audit of the State of Texas Comprehensive Annual Financial Report (CAFR); therefore, an opinion has not been expressed on the financial statements and related information contained in this report.

If you have any questions, please contact Mr. Sergio Rey, Director of Accounting, at (512) 465-4203, or Ms. Linda M. Flores, CPA, Chief Financial Officer, at (512) 465-4125.

Sincerely,

Whitney H. Brewster
Executive Director
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COMBINED FINANCIAL STATEMENTS
EXHIBIT I
COMBINED BALANCE SHEET
Statement of Net Assets - Governmental Funds
August 31, 2015

<table>
<thead>
<tr>
<th>Governmental Fund Types</th>
<th>General Revenue</th>
<th>Special Revenue</th>
<th>Total Governmental</th>
<th>Capital Asset Adjustments</th>
<th>Long Term Liabilities Adjustments</th>
<th>Statement of Net Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(0001)</td>
<td>(EXH A-1)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Assets**

**Current Assets:**

- **Cash on Hand**: $15,725.00
- **Cash in Bank**: $20,000.00
- **Cash in State Treasury**: $3,453,886.22
- **Legislative Appropriations**: $24,389,630.03
- **Receivables:**
  - Federal: $24,188.15
  - Accounts Receivable: $5,795,510.49
  - Due From Other Funds (Note 12): $274,978.98
  - Due From Other Agencies (Note 12)
- **Consumable Inventories**: $316,004.76

**Total Current Assets**: $34,289,923.63

**Non - Current Assets:**

- **Capital Assets:**
  - Non - Depreciable
    - Land and Land Improvements
  - Depreciable
    - Buildings and Building Improvements
    - Furniture and Equipment: $3,641,607.69
    - Less - Accumulated Depreciation: (2,133,705.43)
    - Vehicles, Boats, & Aircraft: $866,549.62
    - Less - Accumulated Depreciation: (782,277.86)
    - Intangibles Computer Software: $3,494,944.92
    - Less - Accumulated Amortization: (1,180,952.56)

**Total Non Current Assets**: $3,906,166.38

**Total Assets**: $34,289,923.63

The accompanying notes to the financial statements are an integral part of this exhibit.
Governmental Fund Types

<table>
<thead>
<tr>
<th>General Revenue</th>
<th>Special Revenue</th>
<th>Total</th>
<th>Capital</th>
<th>Long Term</th>
<th>Statement of</th>
</tr>
</thead>
<tbody>
<tr>
<td>(0001)</td>
<td>(EXH A-1)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Highway Fund</td>
<td>(0006)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Liabilities

Current Liabilities:

Payables:
- Vouchers Payable $1,131,263.71, $600,359.61, $1,731,623.32; $1,731,623.32
- Accounts Payable 7,567,294.04, 1,953,619.80, 9,520,913.84, 9,520,913.84
- Payroll Payable 3,484,958.71, 826,512.32, 4,311,471.03, 4,311,471.03
- Due to Other Funds (Note 12) 612,730.01, 163,217.32, 775,947.33, 775,947.33
- Due to Other Agencies (Note 12) 2,677,480.79, 2,677,480.79

Unearned Revenues
- Employees Compensable Leave (Note 5) 2,089,910.12, 2,089,910.12

Total Current Liabilities 15,473,727.26, 3,543,709.05, 19,017,436.31, 3,933,837.18, 21,107,346.43

Non-Current Liabilities:
- Employees' Compensable Leave (Note 5) 1,843,927.06, 1,843,927.06

Total Non-Current Liabilities 1,843,927.06, 1,843,927.06

Total Liabilities 15,473,727.26, 3,543,709.05, 19,017,436.31, 3,933,837.18, 22,951,273.49

Fund Financial Statement

Fund Balances:
- Non Spendable (Inventory) 316,004.76, 316,004.76, 316,004.76
- Restricted 121,399,849.31, 121,399,849.31
- Unassigned 18,500,191.61, 18,500,191.61

Total Fund Balances 18,816,196.37, 121,399,849.31, 140,216,045.68, 140,216,045.68

Total Liabilities and Fund Balance $34,289,923.63, $124,943,558.36, $159,233,481.99

Government-Wide Statement of Net Assets

Net Assets:
- Invested in Capital Assets, Net of Related Debt $3,906,166.38, $3,906,166.38
- Unrestricted (3,933,837.18), (3,933,837.18)

Total Net Assets $3,906,166.38, (3,933,837.18), 140,188,374.88
## EXHIBIT II
### COMBINED STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES

Statement of Activities - Governmental Funds
For the Year Ended August 31, 2015

### Governmental Fund Types

<table>
<thead>
<tr>
<th>General</th>
<th>Special Revenue (EXH A-2)</th>
<th>State Highway Fund (0006)</th>
<th>Total Assets</th>
<th>Long-Term Adjustments</th>
<th>Statement of Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legislative Appropriations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Appropriations</td>
<td>$109,112,821.00</td>
<td>$109,112,821.00</td>
<td>$109,112,821.00</td>
<td>$109,112,821.00</td>
<td></td>
</tr>
<tr>
<td>Additional Appropriations</td>
<td>$8,969,795.37</td>
<td>$8,969,795.37</td>
<td></td>
<td>$8,969,795.37</td>
<td></td>
</tr>
<tr>
<td>Federal Revenues</td>
<td>$394,940.64</td>
<td>(108,585.69)</td>
<td>286,354.95</td>
<td>286,354.95</td>
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</tr>
<tr>
<td>Federal Pass-Through Revenues</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>State Grant Pass-Through</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Licenses, Fees and Permits</td>
<td>$2,771,810.26</td>
<td>$1,511,122,636.06</td>
<td>$1,513,894,446.32</td>
<td>$1,513,894,446.32</td>
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<td>Interest &amp; Investment Income</td>
<td>$535.73</td>
<td>$535.73</td>
<td>$535.73</td>
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<tr>
<td>Settlement of Claims</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales of Goods and Services</td>
<td>$364.50</td>
<td>16,607.87</td>
<td>14,527.34</td>
<td>14,527.34</td>
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</tr>
<tr>
<td>Other</td>
<td>(2,080.53)</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Total Revenues</td>
<td>$121,248,186.97</td>
<td>$1,511,030,658.24</td>
<td>$1,632,278,845.21</td>
<td>$1,632,278,845.21</td>
<td></td>
</tr>
</tbody>
</table>

| Expenditures | | | | |
| Salaries and Wages | $31,281,543.16 | $7,296,140.92 | $38,577,684.08 | $152,062.90 | $38,729,746.98 |
| Payroll Related Costs | $8,443,089.43 | $2,811,697.70 | $11,254,787.13 | $11,254,787.13 |
| Professional Fees and Services | $12,172,688.38 | $8,273,299.61 | $20,445,987.99 | $20,445,987.99 |
| Travel | $297,589.51 | $82,311.77 | $379,901.28 | $379,901.28 |
| Materials and Supplies | $10,706,255.76 | $3,456,821.63 | $14,163,077.39 | $14,163,077.39 |
| Communications and Utilities | $3,873,532.33 | $579,959.63 | $4,453,491.96 | $4,453,491.96 |
| Repairs and Maintenance | $2,302,489.62 | $1,518,802.37 | $3,821,291.99 | $3,821,291.99 |
| Rentals and Leases | $248,547.73 | $677,914.22 | $926,461.95 | $926,461.95 |
| Printing and Reproduction | $6,172,634.70 | $107,833.49 | $6,280,468.19 | $6,280,468.19 |
| Claims and Judgements | $3,000.00 | | $3,000.00 | $3,000.00 |
| Federal Pass-Through Expenditures | | | | |
| State Grant Pass-Through Expenditures | | $130,764.03 | $130,764.03 | $130,764.03 |
| Intergovernmental Payments | | $13,381,839.16 | $13,381,839.16 | $13,381,839.16 |
| Public Assistance Programs | | | | |
| Other Operating Expenditures | $31,973,909.56 | $6,679,646.34 | $38,653,555.90 | $38,653,555.90 |
| Capital Outlay | $97,379.64 | $350,747.30 | $448,126.94 | $448,126.94 |
| Depreciation Expense | | | | |
| Total Expenditures | $121,085,263.01 | $31,835,174.98 | $152,920,437.99 | $828,046.37 | $153,900,547.26 |

| Other Financing Sources (Uses) | | | | |
| Transfers In (Note 12) | $2,922.56 | $2,922.56 | $2,922.56 |
| Transfers Out (Note 12) | (4,351.99) | (1,474,602,256.29) | (1,474,606,608.28) | (1,474,606,608.28) |
| Sale of Capital Assets | $2,070.00 | $3,776.69 | $5,846.69 | $5,846.69 |
| Loss on Capital Assets | | | | |
| Insurance Recoveries | | | | |
| Legislative Transfers In (Note 12) | | | | |
| Legislative Transfers Out (Note 12) | | | | |
| Gain (Loss) on of Capital Assets | (27,545.13) | (27,545.13) | (27,545.13) | (27,545.13) |
| Inc (Dec) in Net Assets Due to Interagency Transfer | 9,422.47 | 9,422.47 | 9,422.47 | 9,422.47 |
| Total Other Financing Sources (Uses) | $640.57 | $1,474,597,839.03 | (18,522,66) | (1,474,615,961.69) |

| Net Change in Fund Balances/Net Assets | | | | |
| Net Change in Fund Balances | $163,564.53 | $4,597,003.66 | $4,760,568.19 | $4,846,169.03 | $140,216,045.68 |

### Government-wide Statement of Net Assets

| | | | | |
| Net Change in Net Assets | $140,216,045.68 | (846,169.03) | (152,062.90) | $139,217,813.75 |
| Net Assets-Beginning | $6,408,502.04 | (3,781,774.28) | 2,626,727.76 | 2,626,727.76 |
| Restatements | (1,656,166.63) | (1,656,166.63) | | |
| Net Assets, September 1, 2014, as Restated and Adjusted | 6,752,335.41 | (3,781,774.28) | 970,361.12 | 970,361.12 |
| Net Assets-August 31, 2015 | $140,216,045.68 | 3,906,166.38 | (3,933,837.18) | $139,217,813.75 |
## EXHIBIT VI
### COMBINED STATEMENT OF NET ASSETS - FIDUCIARY FUNDS
#### August 31, 2015

<table>
<thead>
<tr>
<th></th>
<th>Agency Funds</th>
<th>(Exhibit J-1)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Current Assets:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash in State Treasury</td>
<td>$10,807,647.74</td>
<td>$10,807,647.74</td>
</tr>
<tr>
<td><strong>Total Current Assets</strong></td>
<td></td>
<td>$10,807,647.74</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td>$10,807,647.74</td>
<td>$10,807,647.74</td>
</tr>
<tr>
<td><strong>Liabilities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Current Liabilities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable</td>
<td>917,427.49</td>
<td></td>
</tr>
<tr>
<td>Funds Held for Others</td>
<td>9,890,220.25</td>
<td></td>
</tr>
<tr>
<td><strong>Total Current Liabilities</strong></td>
<td></td>
<td>$10,807,647.74</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td>$10,807,647.74</td>
<td>$10,807,647.74</td>
</tr>
<tr>
<td><strong>Net Assets</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Assets:</td>
<td>0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td><strong>Total Net Assets</strong></td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>
NOTES TO THE FINANCIAL STATEMENTS
NOTES TO THE FINANCIAL STATEMENTS

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Scope of Entity

The Texas Department of Motor Vehicles (TxDMV), created in 2009 by the authority of H.B. 3097, 81st Legislature, Regular Session, is an agency of the State of Texas. TxDMV is responsible for titling and registering vehicles, licensing and regulating of the motor vehicle sales and distribution, salvage dealers, registering commercial oversize/overweight (OS/OW) vehicles, and providing auto theft prevention grants.

The TxDMV has not identified any component units which should have been blended into an appropriated fund.

Basis of Presentation

Due to the statewide requirements included in Governmental Accounting Standards Board Statement No. 34, Basic Financial Statements - and Management’s Discussion and Analysis - for State and Local Governments, the Comptroller of Public Accounts does not require the accompanying annual financial report to comply with all the requirements of this statement. The financial report will be considered for audit by the State Auditor as part of the audit of the State of Texas Comprehensive Annual Financial Report; therefore, an opinion has not been expressed on the financial statements and related information contained in this report.

Fund Structure

The accompanying financial statements are presented on the basis of funds, each of which is considered a separate accounting entity.

Governmental Fund Types & Government-wide Adjustment Fund Types

General Revenue Funds

General Revenue Fund (0001) – This fund is used to account for all financial resources of the state except those required to be accounted for in another fund. The following accounts are consolidated into the General Revenue fund.

License Plate Trust Fund (0802) – This fund is used to receive and account for fees charged from the sale of specialty license plates collected under Subchapter G, Transportation Code. Funds are to be used in accordance with their specific statutory purpose.

Suspense Fund (0900) – This fund is used to temporarily hold and account for receipts, until the correct disposition of the items is determined. Items held in the fund are cleared to the various other funds or refunded to the payer.

Specialty License Plates Account (5140) – This fund is used to receive and account for fees charged from the sale of special license plates and is in addition to motor vehicle registration fees.

Special Revenue Funds

State Highway Fund (0006) – This fund is restricted to expenditures for the building, maintaining, and policing of the state highways. It derives its financing primarily from legally dedicated revenues such as motor fuels tax and vehicle registration fees, and from federal reimbursements for selected construction projects. This fund includes revenue which supports the TxDMV’s automated registration and title system.
The agency collected $24.6 million in revenue from the $1 fee authorized by House Bill 3014, 76th Legislature, Regular Session, for a license plate or other registration insignia. The revenue is used to enhance the agency’s automated registration and title system.

**Capital Assets Adjustments Fund Type**

Capital Assets Adjustment fund type is used to convert governmental fund types’ capital assets from modified accrual to full accrual.

**Long Term Liabilities Adjustments Fund Type**

The Long-Term Liabilities Adjustments fund type is used to convert all other governmental fund types’ debt from modified accrual to full accrual. The composition of this fund type is discussed in Note 5.

**Fiduciary Fund Types**

Fiduciary funds account for assets held by the state in a trustee capacity or as an agent for individuals, private organizations, other governmental units, and/or other funds. When assets are held under the terms of a formal trust agreement, either a pension trust fund, or a private purpose trust fund is used.

**Agency Funds**

Agency Funds are used to account for assets held in a custodial capacity for the benefit of other agencies or individuals.

- **Proportional Registration Distributive Trust Fund (0021)** – This fund is used primarily to collect and distribute registration fees from trucking companies that operate in more than one state. The fees are distributed to the individual states based on mileage driven.

- **Unified Carrier Registration Unappropriated Fund (0645)** – This fund is used primarily to collect and distribute registration fees from motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies that operate in more than one state. The fees are distributed in accordance to the Unified Carrier Registration System (49 U.S.C. Section 13908.)

- **Child Support Deductions (0807)** – This fund is used as a holding account where child support payroll deductions are held until disbursed.

- **City, County, MTA, & SPD Fund (0882)** - This fund is used as a holding account where taxes for the state are collected until disbursed.

- **Suspense Fund (0900)** - This fund is used when depositing funds where final disposition has not been determined at the time of the receipt of funds.

- **Direct Deposit Correction Account (0980)** – This fund is used to temporarily hold and account for direct deposits that are unable to be processed until the correct disposition of the item is determined.

**Basis of Accounting**

The basis of accounting determines when revenues and expenditures or expenses are recognized in the accounts and reported in the financial statements. The accounting and financial reporting treatment applied to a fund is determined by its measurement focus.

Governmental fund types that build the fund financial statements are accounted for using the modified accrual basis of accounting. Under the modified accrual basis, revenues are recognized in the period in which they become
measurable and available to finance operations of the fiscal year or liquidate liabilities existing at fiscal year end. The State of Texas considers receivables collected within sixty days after year-end to be available and recognizes them as revenues of the current year for Fund Financial Statements prepared on the modified accrual basis. For federal contracts and grants, revenues have been accrued to the extent earned by eligible expenditures within each fiscal year. Expenditures and other uses of financial resources are recognized when the related liability is incurred.

Governmental adjustment fund types that will build the government-wide financial statements are accounted for using the full accrual method of accounting. This includes capital assets, accumulated depreciation, unpaid Employee Compensable Leave, the unmatured debt service (principal and interest) on general long-term liabilities, long-term capital leases, and long-term claims and judgments. The activity will be recognized in these new fund types.

**Budgets and Budgetary Accounting**

The budget is prepared biennially and represents appropriations authorized by the legislature and approved by the Governor (the General Appropriations Act). The Board adopts an annual operating budget and policies consistent with these appropriations. Encumbrance accounting is utilized for budgetary control purposes. An encumbrance is defined as an outstanding purchase order or other commitment for goods or services. It reserves a part of the applicable appropriation for future expenditure. Encumbrance balances are reported in Note 15.

Unencumbered and unexpended funds are generally subject to lapse 60 days after the end of the fiscal year for which they were appropriated.

**Assets, Liabilities and Fund Balances**

**Assets**

**Cash and Cash Equivalents**
Short-term highly liquid investments with an original maturity of three months or less are considered cash equivalents. Cash in bank represents the TxDMV Travel Advance Fund.

**Receivables**
The receivables represent revenue from fees and federal funds that has been earned but not received. This account is presented net of Allowance for Bad Debts.

**Inventories and Prepaid Items**
This represents supplies and postage on hand. Supplies for governmental funds are accounted for using the consumption method of accounting. The cost of these items is recognized as expenditure when items are consumed.

**Capital Assets**
Assets with an initial, individual cost of more than $5,000 and an estimated useful life in excess of one year are capitalized. These assets are capitalized at cost or, if purchased, at appraised fair value as of the date of acquisition. Depreciation is reported on all “exhaustible” assets. Assets are depreciated over the estimated useful life of the asset using the straight-line method.

**Liabilities**

**Accounts Payable**
Accounts payable represents the liability for the value of assets or services received at the balance sheet date for which payment is pending.

**Payroll Payable**
Payroll payable represents the liability for the August payroll payable on September 1st.
Employees' Compensable Leave
Employees’ compensable leave represents the liability that becomes due upon the occurrence of relevant events such as resignations, retirements, and uses of leave balances by covered employees. Liabilities are reported separately as either current or non-current in the statement of net assets. These obligations are normally paid from the same funding source from which each employee’s salary or wage compensation was paid.

Fund Balance/Net Assets
The difference between fund assets and liabilities is “Net Assets” on the government-wide, proprietary and fiduciary fund statements, and the “Fund Balance” is the difference between fund assets and liabilities on the governmental fund statements.

Fund Balance Components
Nonspendable fund balance includes amounts not available to be spent because they are either (1) not in spendable form or (2) legally or contractually required to be maintained intact.

Restricted fund balance includes those resources that have constraints placed on their use through external parties or by law through constitutional provisions.

Unassigned fund balance is the residual classification for the general fund. This classification represents fund balance that was not assigned to other funds and was not restricted, committed or assigned to specific purposes within the general fund.

Invested in Capital Assets, Net of Related Debt
Invested in capital assets, net of related debt consists of capital assets, net of accumulated depreciation and reduced by outstanding balances for outstanding balances for bond, notes, and other debt that are attributed to the acquisition, construction or improvement of those assets.

Unrestricted Net Assets
Unrestricted net assets consist of net assets that have no constraints placed on net asset use by external sources or by law through constitutional provisions or enabling legislation. Unrestricted net assets often have constraints on resources, which are imposed by management but can be removed or modified.

Interfund Activities and Balances
The agency has the following types of transactions among funds:

Transfers
Legally required transfers that are reported when incurred as Transfers In by the recipient fund and as Transfers Out by the disbursing fund.

Reimbursements
Reimbursements are repayments from funds responsible for expenditures or expenses to funds that made the actual payment. Reimbursements of expenditures made by one fund for another that are recorded as expenditures in the reimbursing fund and as a reduction of expenditures into the reimbursed fund.

Accrual of Operating Transfers, Reimbursements, and Residual Equity Transfers are shown as Due To and Due From instead of accounts receivable or accounts payable.
NOTE 2: CAPITAL ASSETS

A summary of changes in Capital Assets for the year ended August 31, 2015, is presented below:

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<tr>
<th>PRIMARY GOVERNMENT</th>
<th>Balance 09/01/14</th>
<th>Adjust/Restate</th>
<th>Reclass. Completed CIP</th>
<th>Reclass. Increase Inter-Agency Transaction</th>
<th>Reclass. Decrease Inter-Agency Transaction</th>
<th>Additions</th>
<th>Deletions</th>
<th>Balance 08/31/15</th>
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</thead>
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<tr>
<td>Non-Depreciable Assets</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Total Non-Depreciable Assets</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>Depreciable Assets</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buildings/Building Improvements</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Furniture and Equipment</td>
<td>3,393,807.42</td>
<td>32,613.51</td>
<td>282,191.94</td>
<td>(67,005.18)</td>
<td>3,641,607.69</td>
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<td></td>
</tr>
<tr>
<td>Vehicles, Boats, &amp; Aircraft</td>
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<td></td>
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<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Total Depreciable Assets</td>
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<td>32,613.51</td>
<td>282,191.94</td>
<td>(114,175.18)</td>
<td>4,508,157.31</td>
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<td></td>
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<tr>
<td>Less Accumulated Depreciation for:</td>
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<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buildings/Building Improvements</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Furniture and Equipment</td>
<td>(1,648,470.39)</td>
<td>89,414.49</td>
<td>(23,191.04)</td>
<td>(596,846.44)</td>
<td>45,387.95</td>
<td>(2,133,705.43)</td>
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<tr>
<td>Vehicles, Boats, &amp; Aircraft</td>
<td>(819,912.02)</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Other Capital Assets</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Accumulated Depreciation</td>
<td>(2,468,382.41)</td>
<td>89,414.49</td>
<td>(23,191.04)</td>
<td>(600,765.88)</td>
<td>86,941.55</td>
<td>(2,915,983.29)</td>
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<td></td>
</tr>
<tr>
<td>Depreciable Assets, Net</td>
<td>1,839,144.63</td>
<td>89,414.49</td>
<td>9,422.47</td>
<td>(318,573.94)</td>
<td>(27,233.63)</td>
<td>1,592,174.02</td>
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<tr>
<td>Amortizable Assets – Intangible:</td>
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<td></td>
</tr>
<tr>
<td>Land Use Rights</td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Computer Software</td>
<td>5,349,371.92</td>
<td>(2,014,132.00)</td>
<td>165,935.00</td>
<td>(6,230.00)</td>
<td>3,494,944.92</td>
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<tr>
<td>Other Capital Intangible</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Amortizable Assets – Intangible</td>
<td>5,349,371.92</td>
<td>(2,014,132.00)</td>
<td>165,935.00</td>
<td>(6,230.00)</td>
<td>3,494,944.92</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less Accumulated Amortization for:</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Land Use Rights</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Computer Software</td>
<td>(780,014.51)</td>
<td>268,550.88</td>
<td>(675,407.43)</td>
<td>5,918.50</td>
<td>(1,180,952.56)</td>
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<tr>
<td>Other Capital Intangible</td>
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<td></td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>Total Accumulated Amortization</td>
<td>(780,014.51)</td>
<td>268,550.88</td>
<td>(675,407.43)</td>
<td>5,918.50</td>
<td>(1,180,952.56)</td>
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<td></td>
</tr>
<tr>
<td>Amortizable Assets – Intangible, Net</td>
<td>4,569,357.41</td>
<td>(1,745,581.12)</td>
<td>(509,472.43)</td>
<td>(311,50)</td>
<td>2,313,992.36</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Governmental Activities Capital Assets, Net</td>
<td>$ 6,408,502.04</td>
<td>$ (1,656,166.63)</td>
<td>$ 9,422.47</td>
<td>$ (828,046.37)</td>
<td>$ (27,545.13)</td>
<td>$ 3,906,166.38</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
NOTE 3: DEPOSITS, INVESTMENTS, & REPURCHASE AGREEMENTS

Deposits of Cash in Bank
As of August 31, 2015, the carrying amount of deposits was $20,000.00 as presented below:

<table>
<thead>
<tr>
<th>Amount</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash in Bank – Carrying Amount</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>Total Cash in Bank per AFR (Exhibit I)</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

NOTE 4: SHORT-TERM DEBT

Not applicable

NOTE 5: LONG-TERM LIABILITIES

Changes in Long-Term Liabilities
During the year ended August 31, 2015, the following changes occurred in liabilities:

<table>
<thead>
<tr>
<th>Governmental Activities</th>
<th>Balance 9/01/14</th>
<th>Additions</th>
<th>Reductions</th>
<th>Balance 8/31/15</th>
<th>Amounts Due Within Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensable Leave</td>
<td>$3,781,774.28</td>
<td>$3,271,629.91</td>
<td>$3,119,567.01</td>
<td>$3,933,837.18</td>
<td>$2,089,910.12</td>
</tr>
</tbody>
</table>

Employees' Compensable Leave
A state employee is entitled to be paid for all unused vacation time accrued, in the event of the employee's resignation, dismissal, or separation from State employment, provided the employee has had continuous employment with the State for six months. Expenditures for accumulated vacation leave balances are recognized in the period paid or taken in governmental fund types. For these fund types, the liability for unpaid benefits is recorded in the Statement of Net Assets. An expense and liability for proprietary fund types are recorded in the proprietary funds as the benefits accrue to employees. No liability is recorded for non-vesting accumulating rights to receive sick pay benefits.

NOTE 6: BONDED INDEBTEDNESS

Not Applicable

NOTE 7: DERIVATIVE INSTRUMENTS

Not Applicable
NOTE 8: LEASES

Operating Leases
Included in the expenditures reported in the financial statement are the following amounts of rent paid or due under operating lease obligations:

<table>
<thead>
<tr>
<th>Fund Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund 0006</td>
<td>$ 681,680.59</td>
</tr>
<tr>
<td>Fund 0001</td>
<td>$ 162,107.73</td>
</tr>
</tbody>
</table>

Note: Future minimum lease rental payments under non-cancelable operating leases having an initial term in excess of one year are as follows:

<table>
<thead>
<tr>
<th>Year Ended August 31, 2015</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>$ 803,450.48</td>
</tr>
<tr>
<td>2017</td>
<td>688,973.73</td>
</tr>
<tr>
<td>2018</td>
<td>590,590.57</td>
</tr>
<tr>
<td>2019</td>
<td>427,977.78</td>
</tr>
<tr>
<td>2020</td>
<td>352,182.39</td>
</tr>
<tr>
<td>2021-25</td>
<td>1,342,899.90</td>
</tr>
<tr>
<td>Total Minimum Future Lease Rental Payments</td>
<td>$ 4,206,074.85</td>
</tr>
</tbody>
</table>

NOTE 9: PENSION PLANS AND OPTIONAL RETIREMENT PROGRAM

Not Applicable

NOTE 10: DEFERRED COMPENSATION

Not Applicable

NOTE 11: POST EMPLOYMENT HEALTH CARE AND LIFE INSURANCE BENEFITS

Not Applicable
NOTE 12: INTERFUND ACTIVITY AND TRANSACTIONS

The agency experienced routine transfers with other state agencies, which were consistent with the activities of the fund making the transfer. Repayment of interfund balances will occur within one year from the date of the financial statement. Individual balances and activity at August 31, 2015 are as follows:

<table>
<thead>
<tr>
<th>Source</th>
<th>Due from Other Agencies</th>
<th>Due to Other Agencies</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Revenue (01)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appd Fund 0001, D23 fund 0001</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agy 405, D23 fund 3765</td>
<td></td>
<td>5,646.70</td>
<td>State Pass Through</td>
</tr>
<tr>
<td>Agy 405, D23 fund 3775</td>
<td></td>
<td>2,036.90</td>
<td>State Pass Through</td>
</tr>
<tr>
<td>Agy 696, D23 fund 0014</td>
<td></td>
<td>27,163.53</td>
<td>State Pass Through</td>
</tr>
<tr>
<td>Appd Fund 0802, D23 fund 0802</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agy 300, D23 fund 0803</td>
<td></td>
<td>27,110.53</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 300, D23 fund 0804</td>
<td></td>
<td>24,446.29</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 300, D23 fund 0805</td>
<td></td>
<td>16,121.36</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 302, D23 fund 0803</td>
<td></td>
<td>28,424.30</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 302, D23 fund 0804</td>
<td></td>
<td>46,595.57</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 302, D23 fund 0805</td>
<td></td>
<td>8,150.31</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 306, D23 fund 0802</td>
<td></td>
<td>18,627.28</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 403, D23 fund 3005</td>
<td></td>
<td>865.95</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 403 D23 fund 3006</td>
<td></td>
<td>519.03</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 506, D23 fund 0802</td>
<td></td>
<td>7,334.82</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 530 D23 fund 0802</td>
<td></td>
<td>2,439.90</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 537, D23 fund 0803</td>
<td></td>
<td>732,469.89</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 537, D23 fund 0804</td>
<td></td>
<td>16,679.89</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 537, D23 fund 0805</td>
<td></td>
<td>34,254.87</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 538, D23 fund 0802</td>
<td></td>
<td>19,957.42</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 539, D23 fund 0802</td>
<td></td>
<td>2,278.10</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 542, D23 fund 0802</td>
<td></td>
<td>6,147.35</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 542, D23 fund 4100</td>
<td></td>
<td>16,026.08</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 542, D23 fund 4200</td>
<td></td>
<td>6,539.60</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 551, D23 fund 0802</td>
<td></td>
<td>8,456.98</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 555, D23 fund 1802</td>
<td></td>
<td>6,308.92</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 555 D23 fund 2802</td>
<td></td>
<td>15,239.41</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 555, D23 fund 3802</td>
<td></td>
<td>1,205.81</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 576, D23 fund 0802</td>
<td></td>
<td>16,214.61</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 701, D23 fund 2250</td>
<td></td>
<td>4,428.67</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 701, D23 fund 2260</td>
<td></td>
<td>110.00</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 701, D23 fund 2270</td>
<td></td>
<td>2,588.06</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 701, D23 fund 2271</td>
<td></td>
<td>3,877.23</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 701, D23 fund 2273</td>
<td></td>
<td>7,760.54</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 701, D23 fund 2274</td>
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<td>5,047.39</td>
<td>Shared Fund</td>
</tr>
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<td>Agy 711, D23 fund 0802</td>
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<td>42,311.52</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 714, D23 fund 0802</td>
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<td>5,635.00</td>
<td>Shared Fund</td>
</tr>
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<td>Agy 715, D23 fund 0802</td>
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<td>89,929.70</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 717, D23 fund 0802</td>
<td></td>
<td>11,099.04</td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Due from Other Agencies</td>
<td>Due to Other Agencies</td>
<td>Source</td>
<td></td>
</tr>
<tr>
<td>-------------------------</td>
<td>-----------------------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td>Agy 721, D23 fund 0802</td>
<td>2,201.99</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 724, D23 fund 0802</td>
<td>17,910.85</td>
<td>Shared Fund</td>
<td></td>
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<tr>
<td>Agy 730, D23 fund 0802</td>
<td>2,737.74</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 732, D23 fund 0802</td>
<td>2,113.63</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 733, D23 fund 0802</td>
<td>15,374.78</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 734, D23 fund 0802</td>
<td>601.30</td>
<td>Shared Fund</td>
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<td>Agy 735, D23 fund 0802</td>
<td>0.99</td>
<td>Shared Fund</td>
<td></td>
</tr>
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<td>Agy 737, D23 fund 0802</td>
<td>142.44</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 743, D23 fund 0802</td>
<td>110.00</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 747, D23 fund 0802</td>
<td>0.16</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 751, D23 fund 0802</td>
<td>5,071.66</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 752, D23 fund 0802</td>
<td>16,147.68</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 753, D23 fund 0802</td>
<td>2,901.85</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 754, D23 fund 0802</td>
<td>13,674.20</td>
<td>Shared Fund</td>
<td></td>
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<tr>
<td>Agy 755, D23 fund 0802</td>
<td>12,675.93</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 756, D23 fund 0802</td>
<td>17,401.61</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 757, D23 fund 0802</td>
<td>3,905.20</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 759, D23 fund 0802</td>
<td>1,643.88</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 760, D23 fund 1802</td>
<td>1.83</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 765, D23 fund 0802</td>
<td>1,667.81</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 781, D23 fund 4001</td>
<td>22.36</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 781, D23 fund 4002</td>
<td>7,038.16</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 781, D23 fund 4003</td>
<td>4,172.49</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 781, D23 fund 4004</td>
<td>744.18</td>
<td>Shared Fund</td>
<td></td>
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<tr>
<td>Agy 781, D23 fund 4005</td>
<td>4,440.64</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 781, D23 fund 4006</td>
<td>243.20</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 781, D23 fund 4007</td>
<td>1,424.80</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 781, D23 fund 4008</td>
<td>97,279.46</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 781, D23 fund 4009</td>
<td>31,809.08</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 781, D23 fund 4010</td>
<td>22.57</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 781, D23 fund 4011</td>
<td>1,904.43</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 783, D23 fund 0802</td>
<td>1,104.83</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 802, D23 fund 3030</td>
<td>36,985.62</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 802, D23 fund 3043</td>
<td>428,076.93</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 802, D23 fund 3044</td>
<td>27,038.95</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 802, D23 fund 3045</td>
<td>41,907.70</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 802, D23 fund 3046</td>
<td>18,865.90</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 802, D23 fund 3047</td>
<td>190,334.15</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 802, D23 fund 3048</td>
<td>7,235.43</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 802, D23 fund 3049</td>
<td>6,765.09</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 802, D23 fund 3057</td>
<td>59,462.41</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 802, D23 fund 3116</td>
<td>18,666.41</td>
<td>Shared Fund</td>
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</tr>
<tr>
<td>Agy 802, D23 fund 3120</td>
<td>24,124.94</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 802, D23 fund 3142</td>
<td>30,329.35</td>
<td>Shared Fund</td>
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<tr>
<td>Agy 802, D23 fund 3151</td>
<td>799.45</td>
<td>Shared Fund</td>
<td></td>
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<tr>
<td>Agy 808, D23 fund 0802</td>
<td>5,641.26</td>
<td>Shared Fund</td>
<td></td>
</tr>
<tr>
<td>Agy 813, D23 fund 0802</td>
<td>115,367.42</td>
<td>Shared Fund</td>
<td></td>
</tr>
</tbody>
</table>
### Due from Other Agencies

<table>
<thead>
<tr>
<th>Source</th>
<th>Due from Other Agencies</th>
<th>Due to Other Agencies</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appd Fund 5140, D23 fund 5140</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agy 305, D23 fund 0014</td>
<td>13,172.44</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 332, D23 fund 5140</td>
<td>198.00</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 411, D23 fund 5140</td>
<td>2,663.77</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 537, D23 fund 5140</td>
<td>19,481.20</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 551, D23 fund 5140</td>
<td>64,244.37</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 582, D23 fund 5140</td>
<td>900.13</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 701, D23 fund 5140</td>
<td>925.81</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 714, D23 fund 5140</td>
<td>4,434.35</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 721, D23 fund 5140</td>
<td>9,881.94</td>
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<td>Shared Fund</td>
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<tr>
<td>Agy 754, D23 fund 5140</td>
<td>11,833.20</td>
<td></td>
<td>Shared Fund</td>
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<tr>
<td>Agy 781, D23 fund 5140</td>
<td>1,624.29</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td><strong>Total Due From/To Other Agencies</strong></td>
<td><strong>$ 2,677,480.79</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Due from Other Funds

<table>
<thead>
<tr>
<th>Source</th>
<th>Due from Other Funds</th>
<th>Due to Other Funds</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Revenue (01)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appd Fund 0001, D23 fund 0001</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agy 608, D23 fund 0006</td>
<td>163,217.32</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Appd Fund 0900, D23 fund 0090</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Agy 608, D23 fund 0006</td>
<td>500,968.35</td>
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<td>N/A</td>
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<tr>
<td>Appd Fund 0900, D23 fund 0090</td>
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<td></td>
</tr>
<tr>
<td>Agy 608, D23 fund 0001</td>
<td>111,761.66</td>
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<td>N/A</td>
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<tr>
<td>Appd Fund 0001, D23 fund 0001</td>
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<td></td>
</tr>
<tr>
<td>Agy 608, D23 fund 0090</td>
<td>111,761.66</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Special Revenue (02)</strong></td>
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<td></td>
</tr>
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<td>Appd Fund 0006, D23 fund 0006</td>
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<tr>
<td>Agy 608, D23 fund 0001</td>
<td>163,217.32</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Appd Fund 0006, D23 fund 0006</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agy 608, D23 fund 0090</td>
<td>500,968.35</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Total Due From/To Other Funds</strong></td>
<td><strong>$ 775,947.33</strong></td>
<td><strong>$ 775,947.33</strong></td>
<td></td>
</tr>
</tbody>
</table>

### Transfer In

<table>
<thead>
<tr>
<th>Source</th>
<th>Transfer In</th>
<th>Transfer Out</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Revenue (01)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appd Fund 0802, D23 fund 0802</td>
<td>2,922.56</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Agy 538, D23 fund 0802</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appd Fund 0802, D23 fund 0802</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agy 539, D23 fund 0802</td>
<td>268.56</td>
<td></td>
<td>Shared Fund</td>
</tr>
<tr>
<td>Appd Fund 0001, D23 fund 0001</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agy 902, D23 fund 0001</td>
<td>4,083.43</td>
<td></td>
<td>Surplus Property</td>
</tr>
<tr>
<td><strong>Special Revenue (02)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appd Fund 0006, D23 fund 0006</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agy 601, D23 fund 0006</td>
<td>1,474,602,256.29</td>
<td></td>
<td>Shared Cash</td>
</tr>
<tr>
<td><strong>Total Transfers In/Out</strong></td>
<td><strong>$ 2,922.56</strong></td>
<td><strong>$ 1,474,606,608.28</strong></td>
<td></td>
</tr>
</tbody>
</table>
NOTE 13: CONTINUANCE SUBJECT TO REVIEW

Under the Texas Sunset Act, the Agency will be abolished effective September 1, 2019, unless continued in existence by the Legislature as provided by the Act. If abolished, the agency may continue until September 1, 2020, to close out its operations.

NOTE 14: ADJUSTMENTS TO FUND BALANCES AND NET POSITION

During Fiscal Year 2015, an adjustment was made which required restatement of the amounts in Net Assets. A computer software maintenance agreement with the Comptroller of Public Accounts for the Centralized Accounting & Payroll/Personnel System was improperly classified as a capital asset. This results in a net decrease of Non-Current Assets and the total Net Assets by $1,656,166.63.

NOTE 15: CONTINGENCIES AND COMMITMENTS

### Contingent Liabilities

<table>
<thead>
<tr>
<th>Claimant/Plaintiff</th>
<th>Defendant Name</th>
<th>Type of Litigation</th>
<th>Description</th>
<th>Damages Sought</th>
<th>Probability Of Loss</th>
<th>Possible Loss</th>
</tr>
</thead>
<tbody>
<tr>
<td>Various</td>
<td>TxDMV</td>
<td>Certificate Of Title</td>
<td>Dispute of certificate of title. Unable to predict outcome.</td>
<td>Unknown</td>
<td>Reasonable Possible</td>
<td>$ 2,700</td>
</tr>
</tbody>
</table>

**Federal Assistance**

The TxDMV receives federal financial assistance for specific purposes that are subject to review or audit by the federal grantor agencies. Entitlement to this assistance is generally conditional upon compliance with the terms and conditions of the grant agreements and applicable federal regulations. Such audits could lead to requests for reimbursements to grantor agencies for expenditures disallowed under the terms of the grant. Management believes such disallowance, if any, will be immaterial.

**Encumbrances**

As of August 31, 2015, the TxDMV had encumbered the following amounts in governmental funds for signed contracts and purchase orders:

<table>
<thead>
<tr>
<th>Encumbrances</th>
<th>General Revenue Fund (0001)</th>
<th>Special Revenue Fund (0006)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$ 6,212,298.27</td>
<td>$ 10,232,627.95</td>
</tr>
</tbody>
</table>

NOTE 16: SUBSEQUENT EVENTS

Not Applicable
NOTE 17: RISK MANAGEMENT

The department is exposed to a wide range of risks, due to the size, scope and nature of its activities. Some of these risks include, but are not limited to property and casualty losses, workers’ compensation and health benefit claims, theft, damage of assets, etc. The department retains these risks, and manages them through insurance and safety programs. In FY 2015, the department had a $3,000.00 payment related to a claim.

<table>
<thead>
<tr>
<th></th>
<th>Beginning Balance</th>
<th>Increases</th>
<th>Decreases</th>
<th>Ending Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>-</td>
<td>$3,000.00</td>
<td>$(3,000.00)</td>
<td>-</td>
</tr>
</tbody>
</table>

NOTE 18: MANAGEMENT DISCUSSION AND ANALYSIS

The 83rd Legislature, Regular Session, enacted two bills—H.B. 2202 and H.B. 6—that significantly affect TxDMV’s revenue disposition for funds collected by the agency and its method of finance for the 2014-2015 biennium.

H.B. 2202, created the TxDMV Fund and directed certain fees collected by or on the behalf of the TxDMV that were previously deposited to the credit of the State Highway Fund to be deposited to the new fund beginning FY 2014. Subsequently, H.B. 6, the funds consolidation bill, abolished the TxDMV Fund and all revenues that would have been deposited into the newly created TxDMV Fund were re-directed to the credit of the General Revenue Fund.

As in FY 2014, the enactment of these two bills did not affect the total amount of revenue estimated to be collected in FY 2015 by the agency but did affect the disposition of the revenues. The passage of the two bills resulted in a reduction of deposits to the State Highway Fund in the amount of approximately $113.9 million for FY 2015 and an increase in deposits to General Revenue in the same amount.

As in FY 2014, the enactment of H.B. 2202 combined with the enactment of H.B. 6 significantly modified the agency’s method of finance. Although the bill did not alter the TxDMV’s appropriations, the bills shifted the funds from which the agency’s expenditures are made. During FY 2015, approximately 79% of the agency’s expenditures were paid from General Revenue and approximately 21% of its expenditures were paid from the State Highway Fund compared to approximately 34% from the State Highway Fund and 66% from General Revenue in FY 2014.

During FY 2015, the agency was appropriated approximately $33.7 million in unexpended balances in its capital budget to continue with its automation efforts, designed to enhance the agency’s operational efficiencies and the refactoring of the Registration and Titling System (RTS). As of August 31, 2015, the agency has expended approximately $13.4 million of these funds. The General Appropriations Act provides the authority to the agency to spend the remaining automation funds during FY 2016.

As in 2014, the TxDMV experienced a significant shortfall in the agency’s appropriation for Data Center Services (DCS). The actual DCS expenditures in FY 2015 exceeded the available $4 million appropriation by $2 million. The TxDMV Board authorized staff to inform the Legislative Budget Board and the Governor’s Office of Budget, Planning and Policy that the agency would exceed the 25% limitation for capital budget transfers and to allow the agency to use one-time lapses to fund the deficit.

Overall, for FY 2015, the TxDMV’s revenues increased by approximately 2.2% compared to FY 2014, which includes natural growth and additional fees.

Overall, during FY 2015, TxDMV’s expenditures decreased by 6.8% when compared to FY 2014. This decrease is primarily due to decreases in automation related projects of approximately $10 million for computer programming and data processing services, software maintenance and equipment since major components of refactoring projects were completed during FY 2014.
On September 1, 2015, the TxDMV became a financial reporting agency to the Uniform Statewide Accounting System. The agency implemented the financial modules of the Centralized Accounting & Payroll/Personnel System (CAPPS) hosted and maintained by the Comptroller’s Office. The core human resources, payroll and timekeeping modules were later implemented in May, 2015.

NOTE 19: THE FINANCIAL REPORTING ENTITY

The accompanying financial statements include the financial position and results of operations of all organizations, activities and functions considered to be within the scope of the department’s reporting entity.

The Texas Department of Motor Vehicles is a component unit of the state of Texas, and of the statewide Consolidated Annual Financial Report to be issued by the Texas Comptroller of Public Accounts. As such, the department will be audited by the state auditor only to the extent necessary to express an opinion on the financial position of the state as a whole. Accordingly, the state auditor will not express an opinion on the financial statements contained in this report.

NOTE 20: STEWARDSHIP, COMPLIANCE AND ACCOUNTABILITY

Not Applicable

NOTE 21:

Not Applicable to the reporting requirement process.

NOTE 22: DONOR RESTRICTED ENDOWMENTS

Not Applicable

NOTE 23: EXTRAORDINARY AND SPECIAL ITEMS

Not Applicable

NOTE 24: DISAGGREGATION OF RECEIVABLE AND PAYABLE BALANCES

Not Applicable

NOTE 25: TERMINATION BENEFITS

Not Applicable

NOTE 26: SEGMENT INFORMATION

Not Applicable
NOTE 27: SERVICE CONCESSION ARRANGEMENTS

Not Applicable

NOTE 28: DEFERRED OUTFLOWS AND DEFERRED INFLOWS OF RESOURCES

Not Applicable

NOTE 29: TROUBLE DEBT RESTRUCTURING

Not Applicable

NOTE 30: NON-EXCHANGE FINANCIAL GUARANTEES

Not Applicable
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COMBINING FINANCIAL STATEMENTS
### EXHIBIT A-1
**COMBINING BALANCE SHEET**
All General and Consolidated Funds
August 31, 2015

<table>
<thead>
<tr>
<th>Consolidated Accounts</th>
<th>General Revenue Account (0001)</th>
<th>License Plate Trust Fund Account (0802)</th>
<th>Suspense Type Activities Account (0900)</th>
<th>Speciality License Plate Program Account (5140)</th>
<th>Returned Items Type Activities Account (9001)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current Assets:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash on Hand</td>
<td>$ 15,725.00</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$ 15,725.00</td>
</tr>
<tr>
<td>Cash in Bank</td>
<td>20,000.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>20,000.00</td>
</tr>
<tr>
<td>Cash in State Treasury</td>
<td>2,080.53</td>
<td>2,711,796.71</td>
<td>612,730.01</td>
<td>129,359.50</td>
<td>(2,080.53)</td>
<td>3,453,886.22</td>
</tr>
<tr>
<td>Legislative Appropriations</td>
<td>24,389,630.03</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>24,389,630.03</td>
</tr>
<tr>
<td>Receivables:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Federal</td>
<td>24,188.15</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>24,188.15</td>
</tr>
<tr>
<td>Accounts Receivable</td>
<td>5,795,510.49</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5,795,510.49</td>
</tr>
<tr>
<td>Due From Other Funds</td>
<td>274,978.98</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>274,978.98</td>
</tr>
<tr>
<td>Due From Other Agencies</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consumable Inventories</td>
<td>316,004.76</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>316,004.76</td>
</tr>
<tr>
<td><strong>Total Current Assets</strong></td>
<td><strong>30,838,117.94</strong></td>
<td><strong>2,711,796.71</strong></td>
<td><strong>612,730.01</strong></td>
<td><strong>129,359.50</strong></td>
<td><strong>(2,080.53)</strong></td>
<td><strong>34,289,923.63</strong></td>
</tr>
<tr>
<td><strong>Liabilities</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current Liabilities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payables:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vouchers Payable</td>
<td>1,131,263.71</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1,131,263.71</td>
</tr>
<tr>
<td>Account Payable</td>
<td>7,567,294.04</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7,567,294.04</td>
</tr>
<tr>
<td>Payroll Payable</td>
<td>3,484,958.71</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3,484,958.71</td>
</tr>
<tr>
<td>Due to Other Funds</td>
<td>34,847.13</td>
<td>612,730.01</td>
<td></td>
<td>129,359.50</td>
<td></td>
<td>15,473,727.26</td>
</tr>
<tr>
<td>Due to Other Agencies</td>
<td>34,847.13</td>
<td></td>
<td>612,730.01</td>
<td>129,359.50</td>
<td></td>
<td>15,473,727.26</td>
</tr>
<tr>
<td><strong>Total Current Liabilities</strong></td>
<td><strong>12,218,363.59</strong></td>
<td><strong>2,513,274.16</strong></td>
<td><strong>612,730.01</strong></td>
<td><strong>129,359.50</strong></td>
<td><strong>0.00</strong></td>
<td><strong>15,473,727.26</strong></td>
</tr>
<tr>
<td><strong>Fund Balances</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non Spendable (Inventory)</td>
<td>316,004.76</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>316,004.76</td>
</tr>
<tr>
<td>Restricted</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unassigned</td>
<td>18,303,749.59</td>
<td>198,522.55</td>
<td></td>
<td>(2,080.53)</td>
<td></td>
<td>18,500,191.61</td>
</tr>
<tr>
<td><strong>Total Fund Balance</strong></td>
<td><strong>18,619,754.35</strong></td>
<td><strong>198,522.55</strong></td>
<td><strong>0.00</strong></td>
<td><strong>0.00</strong></td>
<td><strong>(2,080.53)</strong></td>
<td><strong>18,816,196.37</strong></td>
</tr>
<tr>
<td><strong>Total Liabilities and Fund Balances</strong></td>
<td><strong>30,838,117.94</strong></td>
<td><strong>2,711,796.71</strong></td>
<td><strong>612,730.01</strong></td>
<td><strong>129,359.50</strong></td>
<td><strong>(2,080.53)</strong></td>
<td><strong>34,289,923.63</strong></td>
</tr>
</tbody>
</table>
## EXHIBIT A-2
**COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES**

**All General and Consolidated Funds**

**For the Year Ended August 31, 2015**

<table>
<thead>
<tr>
<th>General Revenue Account (0001)</th>
<th>License Plate Trust Fund Account (0802)</th>
<th>Suspense Specialty License Plate Program Account (0900)</th>
<th>Returned Items Type Activities Account (9001)</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legislative Appropriations :</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Appropriations</td>
<td>$109,112,821.00</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Additional Appropriations</td>
<td>8,969,795.37</td>
<td>8,969,795.37</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Revenues</td>
<td>394,940.64</td>
<td>394,940.64</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Pass-Through</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Licenses, Fees and Permits</td>
<td>2,759,977.04</td>
<td>11,833.22</td>
<td>2,771,810.26</td>
<td></td>
</tr>
<tr>
<td>Interest &amp; Investment Income</td>
<td>535.73</td>
<td>535.73</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Settlement of Claims</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales of Goods and Services</td>
<td>364.50</td>
<td>364.50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Revenues</td>
<td></td>
<td>(2,080.53)</td>
<td>(2,080.53)</td>
<td></td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td>121,237,898.55</td>
<td>12,368.95</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td><strong>Expenditures</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries and Wages</td>
<td>31,281,543.16</td>
<td>31,281,543.16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payroll Related Costs</td>
<td>8,443,089.43</td>
<td>8,443,089.43</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional Fees and Services</td>
<td>12,172,688.38</td>
<td>12,172,688.38</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Travel</td>
<td>297,589.51</td>
<td>297,589.51</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Materials and Supplies</td>
<td>10,706,255.76</td>
<td>10,706,255.76</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Communications and Utilities</td>
<td>3,873,532.33</td>
<td>3,873,532.33</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Repairs and Maintenance</td>
<td>2,302,489.62</td>
<td>2,302,489.62</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rentals and Leases</td>
<td>248,547.73</td>
<td>248,547.73</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Printing and Reproduction</td>
<td>6,172,634.70</td>
<td>6,172,634.70</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Claims and Judgements</td>
<td>3,000.00</td>
<td>3,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Pass-Through Expenditures</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Grant Pass-Through Expenditures</td>
<td>130,764.03</td>
<td>130,764.03</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intergovernmental Payments</td>
<td>13,381,839.16</td>
<td>13,381,839.16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Assistance Programs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Operating Expenditures</td>
<td>31,973,909.56</td>
<td>31,973,909.56</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>97,379.64</td>
<td>97,379.64</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Expenditures</strong></td>
<td>121,085,263.01</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Excess (Deficit) of Revenues over Expenditures</td>
<td>152,635.54</td>
<td>12,368.95</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td><strong>Other Financing Sources (Uses)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Transfers In (Note 12)</td>
<td>2,922.56</td>
<td>2,922.56</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Transfers Out (Note 12)</td>
<td>(4,083.43)</td>
<td>(268.56)</td>
<td>(4,351.99)</td>
<td></td>
</tr>
<tr>
<td>Insurance Recoveries</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sale of Capital Assets</td>
<td>2,070.00</td>
<td>2,070.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legislative Transfers In (Note 12)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legislative Transfers Out (Note 12)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Other Financing Sources (Uses)</strong></td>
<td>(2,013.43)</td>
<td>2,654.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Excess (Deficit) of Revenues and other Sources</td>
<td>150,622.11</td>
<td>15,022.95</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td><strong>Fund Balance - Beginning</strong></td>
<td>19,790,395.16</td>
<td>183,499.60</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restatements</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Fund Balance As Restated</strong></td>
<td>19,790,395.16</td>
<td>183,499.60</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriations Lapsed</td>
<td>(1,321,262.92)</td>
<td>(1,321,262.92)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Fund Balance - Ending</strong></td>
<td>$18,469,132.25</td>
<td>$198,522.55</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>
### EXHIBIT J-1

COMBINING STATEMENT OF CHANGES IN ASSETS AND LIABILITIES

All Agency Funds

August 31, 2015

<table>
<thead>
<tr>
<th>Beginning Balances September 1, 2014</th>
<th>Additions</th>
<th>Deductions</th>
<th>Ending Balances August 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Unified Carrier Registration-Unappropriated Fund (0645)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash in State Treasury</td>
<td>$0.00</td>
<td>$14,136,482.87</td>
<td>$7,135,520.94</td>
</tr>
<tr>
<td>Liabilities:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable</td>
<td>0.00</td>
<td>7,135,444.94</td>
<td>7,135,444.94</td>
</tr>
<tr>
<td>Funds Held for Others</td>
<td>0.00</td>
<td>14,136,482.87</td>
<td>7,135,520.94</td>
</tr>
<tr>
<td>Total</td>
<td>$0.00</td>
<td>$21,271,927.81</td>
<td>$14,270,965.88</td>
</tr>
<tr>
<td><strong>Proportional Registration Distributive Fund (0021)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash in State Treasury</td>
<td>$5,756,412.03</td>
<td>$99,439,829.39</td>
<td>$102,330,240.80</td>
</tr>
<tr>
<td>Liabilities:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable</td>
<td>0.00</td>
<td>29,062,472.13</td>
<td>29,062,472.13</td>
</tr>
<tr>
<td>Funds Held for Others</td>
<td>5,756,412.03</td>
<td>99,439,829.39</td>
<td>102,330,240.80</td>
</tr>
<tr>
<td>Total</td>
<td>$5,756,412.03</td>
<td>$128,502,301.52</td>
<td>$131,392,712.93</td>
</tr>
<tr>
<td><strong>Child Support - Employee Deduction (0807)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash in State Treasury</td>
<td>$12,281.05</td>
<td>$137,662.39</td>
<td>$138,773.24</td>
</tr>
<tr>
<td>Liabilities:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable</td>
<td>0.00</td>
<td>126,012.19</td>
<td>126,012.19</td>
</tr>
<tr>
<td>Funds Held for Others</td>
<td>12,281.05</td>
<td>137,662.39</td>
<td>138,773.24</td>
</tr>
<tr>
<td>Total</td>
<td>$12,281.05</td>
<td>$263,674.58</td>
<td>$264,785.43</td>
</tr>
<tr>
<td><strong>Suspense Fund (0900)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash in State Treasury</td>
<td>$325,648.01</td>
<td>$113,743,587.91</td>
<td>$113,139,720.93</td>
</tr>
<tr>
<td>Liabilities:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable</td>
<td>0.00</td>
<td>86,173,391.71</td>
<td>85,255,964.22</td>
</tr>
<tr>
<td>Funds Held for Others</td>
<td>325,648.01</td>
<td>113,743,587.91</td>
<td>114,057,148.42</td>
</tr>
<tr>
<td>Total</td>
<td>$325,648.01</td>
<td>$199,916,979.62</td>
<td>$199,313,112.64</td>
</tr>
<tr>
<td><strong>Direct Deposit Correction Account (0980)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash in State Treasury</td>
<td>$0.00</td>
<td>$54,171.95</td>
<td>$54,171.95</td>
</tr>
<tr>
<td>Liabilities:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable</td>
<td>0.00</td>
<td>$54,171.95</td>
<td>$54,171.95</td>
</tr>
<tr>
<td>Funds Held for Others</td>
<td>$0.00</td>
<td>$54,171.95</td>
<td>$54,171.95</td>
</tr>
<tr>
<td>Total</td>
<td>$0.00</td>
<td>$54,171.95</td>
<td>$54,171.95</td>
</tr>
</tbody>
</table>
EXHIBIT J-1
COMBINING STATEMENT OF CHANGES IN ASSETS AND LIABILITIES
All Agency Funds
August 31, 2015

<table>
<thead>
<tr>
<th></th>
<th>Beginning Balances September 1, 2014</th>
<th>Additions</th>
<th>Deductions</th>
<th>Ending Balances August 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unappropriated GR (1000)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assets</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash in State Treasury</td>
<td>$0.00</td>
<td>$279,173,203.78</td>
<td>$279,173,203.78</td>
<td>$0.00</td>
</tr>
<tr>
<td>Liabilities</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable</td>
<td>0.00</td>
<td>13,757,249.49</td>
<td>13,757,249.49</td>
<td>0.00</td>
</tr>
<tr>
<td>Funds Held for Others</td>
<td>0.00</td>
<td>285,845,701.16</td>
<td>285,845,701.16</td>
<td>0.00</td>
</tr>
<tr>
<td>Total</td>
<td>$0.00</td>
<td>$299,602,950.65</td>
<td>$299,602,950.65</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

Total - All Agency Funds

|                               |                                      |                 |                  |                                  |
| Assets                        |                                      |                 |                  |                                  |
| Cash in State Treasury        | 6,094,341.09                         | 506,684,938.29  | 501,971,631.64   | 10,807,647.74                    |
| Total Assets                  | $6,094,341.09                        | $506,684,938.29 | $501,971,631.64  | $10,807,647.74                   |

| Liabilities                   |                                      |                 |                  |                                  |
| Accounts Payable              | 6,094,341.09                         | 136,254,570.46  | 135,337,142.97   | 917,427.49                      |
| Funds Held for Others         | 6,094,341.09                         | 513,357,435.67  | 509,561,556.51   | 9,890,220.25                    |
| Total Liabilities             | $6,094,341.09                        | $649,612,006.13 | $644,898,699.48  | $10,807,647.74                  |

The accompanying notes to the financial statements are an integral part of this exhibit.
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SCHEDULES
-UNAUDITED-

SCHEDULE 1A
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
For the Fiscal Year Ended August 31, 2015

<table>
<thead>
<tr>
<th>Program Title</th>
<th>CFDA Number</th>
<th>State Agency</th>
<th>Non-State Entity</th>
<th>Direct Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>Performance and Registration Information Systems Management</td>
<td>20.231</td>
<td>$</td>
<td>$</td>
<td>$ 8,194.23</td>
</tr>
<tr>
<td>Commercial Vehicle Information Systems and Networks</td>
<td>20.237</td>
<td></td>
<td></td>
<td>278,160.72</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>0.00</td>
<td>0.00</td>
<td>286,354.95</td>
</tr>
</tbody>
</table>

TOTAL FEDERAL FINANCIAL ASSISTANCE $ 0.00 $ 0.00 $ 286,354.95

Note 2 - Reconciliation
Per Combined Statement of Revenues, Expenditures and Changes in Fund Balance (Governmental Fund Types (Exh II):

<p>| Federal Revenues (Exh II) | $ 286,354.95 |
| Federal Pass-Through Revenues (Exh II) | $ 286,354.95 |</p>
<table>
<thead>
<tr>
<th>Total Pass Through From &amp; Direct Program</th>
<th>Pass-Through To</th>
<th>State Agency or University Number</th>
<th>Amount</th>
<th>Non-State Entities Amount</th>
<th>Expenditure Amount</th>
<th>Total Pass Through To &amp; Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td></td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>286,354.95</td>
<td></td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>$ 286,354.95</td>
<td>$</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>$</td>
<td>0.00</td>
</tr>
</tbody>
</table>
-UNAUDITED-

SCHEDULE 1B
SCHEDULE OF STATE GRANT PASS-THROUGHS FROM/TO STATE AGENCIES
For the Fiscal Year Ended August 31, 2015

General Funds

Pass -Through To:

BATIC Grants
Texas Dept of Public Safety (405) $ 49,879.92

Stolen Vehicles
Texas Dept of Public Safety (405) 30,689.09

FUGINET
Texas Dept of Criminal Justice (696) 50,195.02

Total State Pass-Throughs to Other Agencies $ 130,764.03
Texas Department of Motor Vehicles
HELPING TEXANS GO. HELPING TEXAS GROW.

Annual Report of Nonfinancial Data

Fiscal Year Ended
August 31, 2015
Annual Report of Nonfinancial Data
Fiscal Year Ended August 31, 2015

Texas Department of Motor Vehicles

Prepared by
Finance and Administrative Services Division

December 31, 2015
Texas Department of Motor Vehicles Board

Laura Ryan, Chair

Raymond Palacios, Jr., Vice Chair  Marvin Rush
Luanne Caraway  Robert Barnwell, III
Blake Ingram  John Walker, III
Guillermo "Memo" Treviño  Gary M. Swindle

Whitney H. Brewster
Executive Director

Published and distributed by the
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas
Table of Contents

<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Letter of Transmittal</td>
<td>v</td>
</tr>
<tr>
<td>Appropriation Item Transfer Schedule</td>
<td>1</td>
</tr>
<tr>
<td>Historically Underutilized Business Strategic Plan Progress Report</td>
<td>2</td>
</tr>
<tr>
<td>Indirect Cost Schedule</td>
<td>3</td>
</tr>
<tr>
<td>Schedule of Professional/Consulting Fees and Legal Service Fees</td>
<td>4</td>
</tr>
<tr>
<td>Schedule of Space Occupied</td>
<td>8</td>
</tr>
<tr>
<td>Schedule of Vehicles Purchased</td>
<td>10</td>
</tr>
<tr>
<td>Alternative Fuel Program Status</td>
<td>11</td>
</tr>
<tr>
<td>Schedule of Itemized Purchases</td>
<td>12</td>
</tr>
</tbody>
</table>
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December 31, 2015

The Honorable Greg Abbott, Governor
Mr. John Keel, CPA, State Auditor
Ms. Ursula Parks, Director, Legislative Budget Board

Lady and Gentlemen:

We are pleased to submit the Texas Department of Motor Vehicle’s Annual Report of Nonfinancial Data for the year ended August 31, 2015, in compliance with the TEX. GOV’T CODE ANN. §2101.0115 and in accordance with the instructions for completing the Annual Report of Nonfinancial Data.

The accompanying report has not been audited and is considered to be independent of the agency’s Annual Financial Report.

If you have any questions, please contact Mr. Sergio Rey, Director of Accounting, at (512) 465-4203, or Ms. Linda M. Flores, CPA, Chief Financial Officer, at (512) 465-4125.

Sincerely,

Whitney H. Brewster
Executive Director
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### Appropriation Item Transfers*

*For the Fiscal Year Ended August 31, 2015*

#### ITEM OF APPROPRIATION

<table>
<thead>
<tr>
<th>A. Goal: Optimize Services &amp; Systems</th>
<th>Transfers-In</th>
<th>Transfers-Out</th>
<th>Net Transfers</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.1.1 13001 Titles, Registrations &amp; Plates</td>
<td>$3,339,544.00</td>
<td>$(2,518,814.00)</td>
<td>$820,730.00</td>
</tr>
<tr>
<td>A.1.2 13002 Vehicle Dealer Licensing</td>
<td></td>
<td>$(404,585.00)</td>
<td>$(404,585.00)</td>
</tr>
<tr>
<td>A.1.3 13005 Motor Carrier Permits &amp; Credential</td>
<td></td>
<td>$(1,456,480.00)</td>
<td>$(1,456,480.00)</td>
</tr>
<tr>
<td>A.1.4 13006 Technology Enhancement &amp; Automation</td>
<td>927,360.00</td>
<td>$(104,833.00)</td>
<td>822,527.00</td>
</tr>
<tr>
<td>A.1.5 13007 Customer Contact Center</td>
<td></td>
<td>$(66,586.00)</td>
<td>$(66,586.00)</td>
</tr>
<tr>
<td><strong>Total, Goal A: Optimize Services &amp; Systems</strong></td>
<td><strong>$4,266,904.00</strong></td>
<td><strong>$(4,551,298.00)</strong></td>
<td><strong>$(284,394.00)</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B. Goal: Protect the Public</th>
<th>Transfers-In</th>
<th>Transfers-Out</th>
<th>Net Transfers</th>
</tr>
</thead>
<tbody>
<tr>
<td>B.1.1 13008 Enforcement</td>
<td>$10,447.00</td>
<td>$(135,078.00)</td>
<td>$(124,631.00)</td>
</tr>
<tr>
<td><strong>Total, Goal B: Protect the Public</strong></td>
<td><strong>$10,447.00</strong></td>
<td><strong>$(135,078.00)</strong></td>
<td><strong>$(124,631.00)</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C. Goal: Indirect Administration</th>
<th>Transfers-In</th>
<th>Transfers-Out</th>
<th>Net Transfers</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.1.1 13009 Central Administration</td>
<td>$2,121,902.00</td>
<td>$(2,611,391.00)</td>
<td>$(489,489.00)</td>
</tr>
<tr>
<td>C.1.2 13010 Information Resources</td>
<td></td>
<td>$(466,956.00)</td>
<td>$(466,956.00)</td>
</tr>
<tr>
<td>C.1.2 53150 Data Center Services</td>
<td>1,987,147.00</td>
<td></td>
<td>1,987,147.00</td>
</tr>
<tr>
<td>C.1.3 13011 Other Support Services</td>
<td></td>
<td>$(621,677.00)</td>
<td>$(621,677.00)</td>
</tr>
<tr>
<td><strong>Total, Goal C: Indirect Administration</strong></td>
<td><strong>4,109,049.00</strong></td>
<td><strong>(3,700,024.00)</strong></td>
<td><strong>409,025.00</strong></td>
</tr>
</tbody>
</table>

**NET APPROPRIATION ITEM TRANSFERS**

| | $8,386,400.00 | $(8,386,400.00) | - |

*This schedule does not include Benefit Replacement Pay transfers or Rider Reduction transfers.*
(Unaudited)

HUB Strategic Plan Progress Report
For the Fiscal Year Ended August 31, 2015

Source: Texas Government Code, Section 2161.124

<table>
<thead>
<tr>
<th>Category</th>
<th>Actual for FY 14*</th>
<th>Actual for FY 15*</th>
<th>Goal for FY 16**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heavy construction other than building contracts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building construction, including general contractors and operative builders contracts</td>
<td></td>
<td>85.89%</td>
<td></td>
</tr>
<tr>
<td>Special trade construction contracts</td>
<td></td>
<td>14.59%</td>
<td></td>
</tr>
<tr>
<td>Professional services contracts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other services contracts</td>
<td>17.84%</td>
<td>21.88%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Commodities contracts</td>
<td>15.35%</td>
<td>26.89%</td>
<td>22.00%</td>
</tr>
</tbody>
</table>

* Actual Percent spent with HUBS from HUB Report
** HUB Goal from the Strategic Plan

Prepared By: Fred Snell
Printed Name
Phone Number: 512-465-4177

Approved By: David Chambers
(Printed Name)
Phone Number: 512-465-1257

(Signature required.)
## Payroll-related Costs

*(Exhibit II, Annual Financial Report)*

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FICA Employer Matching Contribution</td>
<td>$2,814,507.85</td>
</tr>
<tr>
<td>Group Health Insurance</td>
<td>$5,505,610.80</td>
</tr>
<tr>
<td>Retirement</td>
<td>$2,894,629.79</td>
</tr>
<tr>
<td>Unemployment</td>
<td>$40,038.67</td>
</tr>
</tbody>
</table>

**Total Payroll-related Costs**

$11,254,787.11

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers' Compensation</td>
<td>$0.00</td>
</tr>
<tr>
<td>Benefit Replacement Pay (BRP)</td>
<td>$134,752.50</td>
</tr>
</tbody>
</table>

**Total Workers' Compensation and BRP**

$134,752.50

## Indirect Costs

*(Not reported in Agency's Annual Financial Report)*

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bond Debt Service Payments</td>
<td>$0.00</td>
</tr>
<tr>
<td>Texas Facilities Commission (TFC)</td>
<td>$0.00</td>
</tr>
<tr>
<td>Texas Public Finance Authority (TPFA)</td>
<td>$0.00</td>
</tr>
<tr>
<td>Other (if applicable)</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

**Total Indirect Costs**

$0.00

## Indirect Costs - Statewide Full Cost Allocation Plan (SWCAP)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comptroller of Public Accounts (CPA)</td>
<td>$294,622.00</td>
</tr>
<tr>
<td>Department of Public Safety (DPS)</td>
<td>$(1,250.00)</td>
</tr>
<tr>
<td>Texas Facilities Commission (TFC)</td>
<td>$3,202.00</td>
</tr>
<tr>
<td>Governor Budget &amp; Planning</td>
<td>$2,714.00</td>
</tr>
</tbody>
</table>

**Total Indirect Costs - Statewide Full Cost Allocation Plan**

$299,288.00

**TOTAL INDIRECT COSTS**

$11,688,827.61
(Unaudited)

Schedule of Professional/Consulting Fees & Legal Service Fees
For the Fiscal Year Ended August 31, 2015

<table>
<thead>
<tr>
<th>Name</th>
<th>Service Provided</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Bridges Sign Language Services</td>
<td>Professional Services-Other</td>
<td>112.50</td>
</tr>
<tr>
<td>ACCA</td>
<td>Educational/Training Services</td>
<td>90.00</td>
</tr>
<tr>
<td>ACS Dataline LP</td>
<td>Educational/Training Services</td>
<td>228.00</td>
</tr>
<tr>
<td>ACS Dataline LP</td>
<td>Information Technology Services</td>
<td>3,639.50</td>
</tr>
<tr>
<td>Adjacent Technologies</td>
<td>Information Technology Services</td>
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<td>Allied Consultants Inc/Filenet</td>
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<td>American Society of Professional Educators</td>
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<td>Austin Bar Association</td>
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<td>Black Book National Auto Research Division</td>
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<td>Bright Waters Ventures INC</td>
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<td>Business &amp; Legal Reports</td>
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<td>C &amp; T Information Tech. Consulting Inc</td>
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<td>Carasoft Technology Corporation</td>
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<td>CDW Government Inc</td>
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<td>Citibank</td>
<td>Educational/Training Services</td>
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<tr>
<td>Comptroller of Public Accounts</td>
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<td>Datspan Inc</td>
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<td>Eventbrite Inc</td>
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<td>Explore Information Services LLC</td>
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<td>Fred Pryor Seminars</td>
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<td>Iteris, Inc.</td>
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<td>Livestream</td>
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(Unaudited)

Schedule of Professional/Consulting Fees & Legal Service Fees
For the Fiscal Year Ended August 31, 2015

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<tr>
<th>Professional/Consulting Fees:</th>
<th>Service Provided</th>
<th>Amount</th>
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<td>Loblolly Consulting LLC</td>
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<td>Park University Enterprises</td>
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<td>Pulse Media Inc</td>
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<td>Robert Half Technology</td>
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<td>Rockhurst College Inc</td>
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<td>Skillpath Seminars</td>
<td>Educational/Training Services</td>
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<td>Slait Consulting LLC</td>
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<td>Soal Technologies LLC</td>
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<td>Southwest Research Institute</td>
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<td>Spider Strategies Inc</td>
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<td>State Auditor's Office</td>
<td>Educational/Training Services</td>
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<tr>
<td>State Bar of Texas</td>
<td>Educational/Training Services</td>
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<tr>
<td>Texas Association of Public Purchasers</td>
<td>Educational/Training Services</td>
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<td>Texas Department of Criminal Justice</td>
<td>Professional Services-Other</td>
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</tr>
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<td>Texas Department of Information Resources</td>
<td>Computer Services-Statewide Tech. Center</td>
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<td>Texas Department of Information Resources</td>
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<td>Texas Department of Public Safety</td>
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<td>Texas Law Enforcement</td>
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<td>Texas Motor Transportation</td>
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<td>The Greentree Group</td>
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<td>TIBH Industries Inc</td>
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<td>TIBH Industries Inc</td>
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<td>Texas Procurement Credit Card (several vendors)</td>
<td>Educational/Training Services</td>
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<tr>
<td>University of Texas at Austin</td>
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<tr>
<td>Veejer Enterprises Inc</td>
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<tr>
<td>Voice Products Inc</td>
<td>Educational/Training Services</td>
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</table>
(Unaudited)

Schedule of Professional/Consulting Fees & Legal Service Fees
For the Fiscal Year Ended August 31, 2015

<table>
<thead>
<tr>
<th>Professional/Consulting Fees:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td>Service Provided</td>
<td>Amount</td>
</tr>
<tr>
<td>Workers Assistance Program Inc</td>
<td>Professional Services-Other</td>
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Total, Professional/Consulting Fees: $20,360,084.47

<table>
<thead>
<tr>
<th>Legal Service Fees:</th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td>Service Provided</td>
<td>Amount</td>
</tr>
<tr>
<td>State Office of Administrative Hearings (SOAH)</td>
<td>Legal Services-Approved by SOAH</td>
<td>85,903.52</td>
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Total, Legal Service Fees: $85,903.52

TOTAL, PROFESSIONAL/CONSULTING FEES & LEGAL SERVICE FEES $20,445,987.99
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The Texas Department of Motor Vehicles is headquartered in Austin, Texas and maintains sixteen (16) regional offices across the state to facilitate delivery of services to the motoring public. Effective November 1, 2009, the Texas Department of Transportation allocated office space to the DMV through a Memorandum of Understanding as required by HB 3097, 81st Legislature, R.S.

### Schedule of Space Occupied
For the Fiscal Year Ended August 31, 2015

<table>
<thead>
<tr>
<th>Location</th>
<th>Address</th>
<th>Lessor</th>
<th>Lease No.</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State Owned Buildings</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Camp Hubbard Complex</td>
<td>4000 Jackson Ave, Austin, Texas</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building, CH 1</td>
<td></td>
<td></td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td>Building, CH 2 (Fiesta Room)</td>
<td></td>
<td></td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td>Building, CH 5</td>
<td></td>
<td></td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td>Bull Creek Complex</td>
<td>4203 Bull Creek, Austin, Texas</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Building 22</td>
<td></td>
<td></td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td>Building 40</td>
<td></td>
<td></td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td>Building 43 A, B &amp; C</td>
<td></td>
<td></td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td><strong>Regional Offices</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Abilene</td>
<td>4250 North Clark, Abilene Texas</td>
<td></td>
<td></td>
<td>Office</td>
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<tr>
<td>Amarillo</td>
<td>5715 IH 27 S Building H, Amarillo Texas</td>
<td></td>
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<td>Office</td>
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<tr>
<td>Austin</td>
<td>1001 East Parmer Lane, Austin Texas</td>
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</tr>
<tr>
<td>Beaumont</td>
<td>8550 Eastex Freeway, Beaumont Texas</td>
<td></td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td>Corpus Christi</td>
<td>1701 South Padre Island Drive, Corpus Christi, Texas</td>
<td></td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td>Huntsville Warehouse Operations</td>
<td>810 FM 2821 Huntsville, Texas</td>
<td>TDCJ - Wynne Unit</td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td>Longview</td>
<td>4549 West Loop 281, Longview Texas</td>
<td></td>
<td></td>
<td>Office</td>
</tr>
<tr>
<td>Lubbock</td>
<td>135 Slaton Road, Lubbock, Texas</td>
<td></td>
<td></td>
<td>Office</td>
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<tr>
<td>Midland/Odessa</td>
<td>3901 East Hwy 80, Odessa Texas</td>
<td></td>
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<tr>
<td>Pharr</td>
<td>600 West Expwy 83, Pharr, Texas</td>
<td></td>
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<td>Office</td>
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<tr>
<td>San Antonio</td>
<td>TransGuide Building, San Antonio, Texas</td>
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<td></td>
<td>Office</td>
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<tr>
<td>Wichita Falls</td>
<td>1601 A Southwest Parkway, Wichita Falls, Texas</td>
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<td></td>
<td>Office</td>
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<tr>
<td><strong>TOTAL</strong>:</td>
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**Leased Space**

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<th>Location</th>
<th>Address</th>
<th>Lessor</th>
<th>Lease No.</th>
<th>Type</th>
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</thead>
<tbody>
<tr>
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<td>2000 Centimeter Circle, Austin, Texas</td>
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<td>Warehouse</td>
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<td>CPA Warehouse</td>
<td>1811 Airport Blvd, Austin, Texas</td>
<td>4015 Limited Partnership</td>
<td>6728</td>
<td>Warehouse</td>
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<tr>
<td><strong>Regional Offices</strong></td>
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<tr>
<td>Dallas</td>
<td>1925 E. Beltline Road, Carrolton, Texas</td>
<td>RDT Leasing</td>
<td>7959</td>
<td>Office</td>
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<tr>
<td>El Paso</td>
<td>1227 Lee Trevino Drive, El Paso, Texas</td>
<td>Burnham Properties, Ltd.</td>
<td>10263</td>
<td>Office</td>
</tr>
<tr>
<td>Fort Worth</td>
<td>2425 Gravel Drive, Fort Worth, Texas</td>
<td>Gravel Drive Limited</td>
<td>10462</td>
<td>Office</td>
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<tr>
<td>Houston</td>
<td>2110 East Governors Circle, Houston, Texas</td>
<td>Ragsdale-Brookwood Joint Venture</td>
<td>20399</td>
<td>Office</td>
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<tr>
<td>Waco</td>
<td>2203 Austin Avenue, Waco, Texas</td>
<td>Tony Martin, Trustee</td>
<td>8365</td>
<td>Office</td>
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</table>

**Grand Totals**
<table>
<thead>
<tr>
<th>Location</th>
<th>Estimated Gross Square Footage</th>
<th>FTEs</th>
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</thead>
<tbody>
<tr>
<td><strong>State Owned Buildings</strong></td>
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</tr>
<tr>
<td>Camp Hubbard Complex</td>
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<td></td>
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<tr>
<td>Building, CH 1</td>
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<tr>
<td>Building, CH 2 (Fiesta Room)</td>
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<tr>
<td>Building, CH 5</td>
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<td>115</td>
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<tr>
<td>Bull Creek Complex</td>
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<td>Beaumont</td>
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<td>7</td>
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<tr>
<td>Corpus Christi</td>
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<td>Harriwick Warehouse Operations</td>
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<td>Longview</td>
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<td>Lubbock</td>
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<td>Midland/Odessa</td>
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<td>3,500</td>
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<td>San Antonio</td>
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<td>628</td>
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<td><strong>Cost Per</strong></td>
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<td><strong>Location</strong></td>
<td><strong>FTEs</strong></td>
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<td><strong>Estimated Gross Square Footage</strong></td>
<td><strong>FTEs</strong></td>
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<tr>
<td>CPA Warehouse</td>
<td>3,000</td>
<td>0</td>
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<tr>
<td>Dallas</td>
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<tr>
<td>El Paso</td>
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<tr>
<td><strong>Grand Totals</strong></td>
<td>195,863</td>
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(Unaudited)

Schedule of Vehicles Purchased

For the Fiscal Year Ended August 31, 2015

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<tr>
<th>Make</th>
<th>Model</th>
<th>Quantity</th>
<th>Purchase Price</th>
<th>Fuel Efficiency In Average</th>
<th>Type of Use</th>
<th>Miles per Gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>No Vehicles Procured during FY2015</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TOTALS

---
---
(Unaudited)

**Alternative Fuel Program Status**

For the Fiscal Year Ended August 31, 2015

**Alternative Fuel Vehicles Received Into Inventory by Fiscal Year**

The totals in the chart below represent the number of alternative fuel vehicles received into inventory between September 1 and August 31 of each fiscal year.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Natural Gas (CNG)</th>
<th>Propane (LPG)</th>
<th>Ethanol (E-85)</th>
<th>Gas/Electric Hybrid</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>0</td>
<td></td>
<td></td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>2014</td>
<td>8</td>
<td></td>
<td></td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>2013</td>
<td>8</td>
<td></td>
<td></td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>2012</td>
<td>6</td>
<td></td>
<td></td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td>2011</td>
<td>0</td>
<td></td>
<td></td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2010</td>
<td>6</td>
<td>1</td>
<td>11</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>0</strong></td>
<td><strong>6</strong></td>
<td><strong>23</strong></td>
<td><strong>11</strong></td>
<td><strong>40</strong></td>
</tr>
</tbody>
</table>

Texas Department of Motor Vehicles was created by the 81st Legislature with House Bill 3097. The vehicles listed for FY2010 were part of the transfer from Texas Department of Transportation when the TxDMV began operations. The purchases to date were surplus vehicles bought from the Texas Department of Public Safety and one new vehicle procured via the Comptroller of Public Accounts Term Contract.

**Fuel Usage for the Fiscal Year Ended August 31, 2015**

<table>
<thead>
<tr>
<th>Type Of Fuel Capability</th>
<th>Gallons Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unleaded Gasoline</td>
<td>20,038</td>
</tr>
<tr>
<td>Unleaded for Gas Hybrid</td>
<td>4,161</td>
</tr>
<tr>
<td>Propane</td>
<td>44</td>
</tr>
<tr>
<td>Ethanol</td>
<td>2,959</td>
</tr>
</tbody>
</table>
(Unaudited)

Schedule of Itemized Purchases

For the Fiscal Year Ended August 31, 2015

<table>
<thead>
<tr>
<th>Vendor Name</th>
<th>Amount</th>
<th>Product Purchased</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Explore Information Services</td>
<td>$12,500.00</td>
<td>Programming and Support Services</td>
<td>TxDMV has undertaken the task to refactor the Registration and Titling System (RTS). Our current Texas International Registration Plan software (TxIRP) must have its screen scraping interface with web service replaced to ensure continued functionality and compatibility with the refactored RTS.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Competing Products Not Satisfactory: Explore Information Services wrote the source code for the system and currently supports it as well. As such, they are the only vendor that can supply the services required.</td>
</tr>
<tr>
<td>Explore Information Services</td>
<td>$68,495.00</td>
<td>Programming and Support Services</td>
<td>Replacement of the existing Texas International Registration Plan (TxIRP) electronic payment process (eEmulator) by a new Texas.gov electronic payment process that offers separate options to include ACH and credit card.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Competing Products Not Satisfactory: Explore Information Services wrote the source code for the system and currently supports it as well. As such, they are the only vendor that can supply the services required.</td>
</tr>
</tbody>
</table>

ITEMIZED PURCHASES TOTAL $80,995.00
Status of the Internal Audit Plan for Fiscal Year 2016

- **Completed:** Implementing an Anti-Fraud, Waste and Abuse Program, TxDMV 16-2
- **In Progress:** Audit of Compliance with the Driver’s Privacy Protection Act (DPPA)

**External Audit Coordination**

<table>
<thead>
<tr>
<th>Engagement Topic &amp; External Auditor</th>
<th>Objective</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Topic:</strong> Risk Management Program</td>
<td>To review the risk management program to verify the extent of loss prevention actions by the agency.</td>
<td>On-site consultation scheduled Friday, Feb. 12, 2016 at 9:00 a.m.</td>
</tr>
<tr>
<td><strong>Who:</strong> State Office of Risk Management</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **Topic:** Texas International Registration Plan (TxIRP) Peer Review | To ensure member jurisdictions comply with the requirements set within the IRP. | • Jan. 15, 2016 - Received final report with request for action plan for compliance  
• May 2 - 4, 2016 - Texas will be placed on the DRC meeting agenda (scheduled in Oklahoma City)  
• Nov. 16, 2016 - Follow-up review date | |
| **Who:** IRP Peer Review Committee | | |
| **Who:** State Auditor’s Office | | |

**Staffing Update**

Arby Gonzales, Deputy Director, attained Certified Public Accountant designation in Dec. 2015.
Implementing an Anti-Fraud, Waste and Abuse Program
TxDMV 16-2

Internal Audit Division
February 4, 2016
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February 04, 2016

Ms. Laura Ryan, Chairman
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

Subject: Implementing an Anti-Fraud, Waste and Abuse Program (TxDMV 16-2)

Dear Chairman Ryan:

The Internal Audit Division has completed the report on Implementing an Anti-Fraud, Waste and Abuse Program, which was included in the Internal Audit Plan for Fiscal Year 2016 as an advisory service. We provided the report to the TxDMV management for their review and comment; management responses are found at the end of Chapters 1 and 3 and in Appendix 5 of the report.

The objectives of this project were to:

- Assess the TxDMV staffs' preparedness and knowledge about their role in preventing, detecting and reporting fraud, waste and abuse
- Make recommendations to implement a robust agency-wide fraud prevention program.

We thank TxDMV management and staff for their cooperation and assistance throughout this project, and especially to Sharon Brewer, Human Resources Division Director, for her assistance in reviewing the Human Resources Manual. Also, special thanks to TxDMV employees that completed this fraud awareness survey and to the State Agency Internal Audit Forum members that provided feedback on their agencies' anti-fraud processes.

If you have any questions or comments, please contact me at (512) 465-4118 or Sandra.Vice@txdmv.gov.

Respectfully,

Sandra H. Vice, CIA, CGAP, CISA
Internal Audit Director

cc: Mr. Raymond Palacios, Chairman, Finance and Audit Committee
Ms. Luanne Caraway, Member, Finance and Audit Committee
Mr. William Marvin Rush, Member, Finance and Audit Committee
Mr. Gary Swindle, Member, Finance and Audit Committee
Mr. Blake Ingram, Board Member
Mr. Robert "Barney" Barnwell, Board Member
Mr. Guillermo "Memo" Treviño, Board Member
Mr. John H. Walker, III, Board Member
Ms. Whitney Brewster, TxDMV Executive Director
Ms. Shelly Mellott, TxDMV Deputy Executive Director
TxDMV Division Directors
Implementing an Anti-Fraud, Waste and Abuse Program

REPORT SUMMARY

The TxDMV currently has various activities to prevent, detect, investigate, and report fraud, waste and abuse (fraud). However, these activities generally have not been coordinated or part of a cohesive agency anti-fraud program. A robust fraud policy could be an important step toward establishing an anti-fraud program that supports an organizational culture that does not tolerate fraud.

Internal Audit researched what professional organizations, state agencies, and institutions of higher education include in their fraud policies. We compiled 18 best practices and compared them with the TxDMV Human Resources Manual to identify potential gaps in the agency’s fraud policy (see Chapter 1). We found that:

- The TxDMV Human Resources Manual currently incorporates 72 percent of best practices for a fraud policy.
  - The TxDMV’s fraud policy included 4 out of 18 topics (22 percent)
  - The TxDMV’s Human Resources Manual included 9 out of 18 topics (50 percent) though not under the fraud policy section

- The TxDMV’s Human Resources Manual did not include 5 out of 18 topics (28 percent)

In addition, Internal Audit administered a survey to TxDMV employees to assess their general knowledge of fraud and the TxDMV’s fraud procedures and their confidence in the TxDMV’s fraud investigation capabilities. Survey responses indicated that employees want fraud awareness training, employees are most likely to report suspicions of fraudulent activity to a supervisor, and 83 percent of employees are very or somewhat confident the TxDMV would conduct a thorough and fair fraud investigation (see Chapter 2 and Appendix 4).

To develop a more robust anti-fraud program, we recommended that TxDMV update its fraud policy and adopt a fraud risk management framework.

MANAGEMENT RESPONSE

Management agrees with recommendations in this report. Management has taken the additional step of creating an Anti-Fraud, Waste and Abuse Working Group to develop a comprehensive program. This working group is also intended to make recommendations on procedural, policy, statute, and budgetary changes necessary to better ensure the state’s resources are used responsively and appropriately.

Management’s detailed remediation activities and expected implementation dates are in the “Management’s Response” sections at the end of Chapters 1 and 3. The Executive Director’s transmittal letter can be found in Appendix 5.
Chapter 1: The TxDMV can Expand Its Fraud Policy to Build a Foundation for an Anti-Fraud, Waste and Abuse Program

The TxDMV currently has various activities to prevent, detect, investigate, and report fraud, waste and abuse (fraud).\(^1\) However, these activities generally have not been coordinated or part of a cohesive agency anti-fraud program. Multiple TxDMV divisions and sections receive and investigate fraud complaints including the following:

- Vehicle Titles and Registration Division
- Automobile Burglary and Theft Prevention Authority
- Enforcement Division
- Internal Audit Division

Investigations conducted by these divisions are also frequently supported by the TxDMV’s Office of General Counsel, Information Technology Services, Human Resources, and Finance and Administrative Services divisions.

The TxDMV has taken steps to increase coordination and communication agency-wide. On January 13, 2016, the TxDMV Anti-Fraud, Waste and Abuse Working Group had its inaugural meeting and plans to develop a program to prevent, detect, investigate and report fraud, waste and abuse impacting the agency.

The TxDMV is authorized to take administrative action, assess civil penalties and impose sanctions as a result of investigations, but the agency does not have law enforcement authority. Some examples of actions the TxDMV may take include imposing a civil penalty; issuing cease and desist orders; and suspending or revoking licenses (Texas Occupations Code, Section 2301.153 “General Powers of the Board” and Texas Transportation Code, Section 1001.002 “Creation of Department; Duties”). The TxDMV does not have authority, to issue or obtain subpoenas, search warrants, or arrest warrants in criminal cases. Instead, the TxDMV must work with law enforcement organizations to take action in criminal law matters.

A robust fraud policy could be an important step toward establishing an anti-fraud program that supports an organizational culture that does not tolerate fraud.

The TxDMV fraud policy can be found in the Human Resources Manual “Employee Expectations” section.\(^2\) In addition to the fraud policy, the “Employee Expectations” section addresses ethics, the revolving door law, contracts with former employees, outside employment or volunteer work, personal appearance, expectations of privacy, political activities, restrictions on political influence, restrictions on use of funds, tobacco use, weapons, intellectual property, and confidentiality. The current fraud policy is brief and does not include some topics that could clarify what to report, to whom to report, and what happens after reporting (see Appendix 2 for current fraud policy and Appendix 3 for sample fraud policy).

**Because there is no definitive source that establishes what topics must be included in a state agency’s fraud policy, we conducted research to identify best practices.** Specifically,

---

\(^1\) Throughout this report, “fraud” can be interpreted as referring to fraud, waste and abuse.

\(^2\) The TxDMV Human Resources Division updated the Human Resources Manual on September 2015 to comply with new statutory requirements. No changes were made to the agency’s fraud policy pending the results of this report.
we researched what professional organizations, state agencies, and institutions of higher education include in their fraud policies. These organizations and resources included the following:

- The Association of Certified Fraud Examiners sample fraud policy
- Texas Parks and Wildlife Department fraud policy
- Employees Retirement System fraud policy
- The University of Texas at Austin “Suspected Dishonest or Fraudulent Activities” operating procedures and other fraud related procedures
- Texas Department of Transportation Compliance Communicator, Office of Compliance, Ethics and Investigations, Spring 2015
- Texas Department of Transportation Internal TxDOT Watch Anonymous Reporting System
- State Agency Ethics Policy (Texas Government Code §572.051)
- Texas Office of the Attorney General model ethics policy

The TxDMV Human Resources Manual currently incorporates 72 percent of best practices for a fraud policy. From the resources listed above, auditors compiled 18 best practices and compared them with the TxDMV Human Resources Manual to identify potential gaps in the agency’s fraud policy. Results of the best practices gap analysis are in Table 1. We categorized and assigned a status to each best practice as follows:

- Present in Policy. Best practice is in the TxDMV fraud policy. The agency policy included 4 out of 18 topics or 22 percent
- Present in Manual. Best practice is located in Human Resources Manual section other than the fraud policy section. The agency policy included 9 out of 18 topics or 50 percent in a section other than the fraud policy
- Not Present. Best practice is not in the Human Resources Manual. The agency policy did not include 5 out of 18 topics or 28 percent

Table 1

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Require that agency personnel be provided or made aware of policy</td>
<td>Present in Policy</td>
<td>Purpose of Policy (Chapter 2, Section 4)</td>
<td>Policy and Benefit Notification Form 1836 must be signed by all new employees acknowledging receipt of Human Resources Manual Chapter 2, which includes the TxDMV fraud policy.</td>
</tr>
<tr>
<td>2 Establish reporting procedure points-of-contact or chain of command for submitting fraud complaints</td>
<td>Present in Policy</td>
<td>Fraud (Chapter 2, Section 4)</td>
<td>Immediate supervisor, or the next level manager if appropriate, and Internal Audit Director are established as points of contact for fraud complaints.</td>
</tr>
<tr>
<td>3 Establish parties authorized to carry out</td>
<td>Present in Possible</td>
<td></td>
<td>Supervisors must provide a written notice of possible disciplinary action. Notice must be</td>
</tr>
</tbody>
</table>

3 University of Texas Handbook of Operating Procedures: 5-2011 Conflict of Interest, Conflict of Commitment, and Outside Activities; 5-2010 Individual Conflict of Interest; 5-1140 Criminal Background Checks; 5-2420 Policies and Procedures for Discipline and Dismissal of Employees; 3-2040 Identity Theft Prevention, Detections, and Mitigation Program.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>disciplinary action</td>
<td>Policy</td>
<td>Disciplinary Action (Chapter 13, Section 1)</td>
<td>approved by the division director and signed by the supervisor.</td>
</tr>
<tr>
<td>4 Assign responsibility for managing and reviewing the fraud policy</td>
<td>Present in Policy</td>
<td>Purpose of This Manual (Introduction)</td>
<td>TxDMV reserves the right to change or modify the manual’s provisions by written notice signed by the executive director or designee.</td>
</tr>
<tr>
<td>5 Require disciplinary action for violating policy</td>
<td>Present in Manual</td>
<td>Purpose of Policy (Chapter 2, Section 4)</td>
<td>Behavior Problems (Chapter 13, Section 1)</td>
</tr>
<tr>
<td>6 State the purpose or intent of the policy</td>
<td>Present in Manual</td>
<td>Purpose of Policy (Chapter 2, Section 4)</td>
<td>The policy’s stated purpose is to “ensure employees conduct themselves in a professional manner and to maintain a safe and productive work environment.” It references the Ethics Policy and employee standards of conduct and expectations. It does not specifically reference fraud.</td>
</tr>
<tr>
<td>7 Describe disciplinary action(s) for violating policy</td>
<td>Present in Manual</td>
<td>Purpose of Policy; Ethics Policy; Ethics (Chapter 2, Section 4)</td>
<td>Types of Disciplinary Action (Chapter 13, Section 1)</td>
</tr>
<tr>
<td>8 Establish protections for complainants</td>
<td>Present in Manual</td>
<td>Texas Whistleblower Act (Chapter 1, Section 1)</td>
<td>Retaliation or Harassment (Chapter 14, Section 1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Whistleblower Act Supervisor Liability; Complaint Process (Chapter 14, Section 3)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Employee Responsibilities; Confidentiality (Chapter 2, Sections 1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The Texas Whistleblower Act (Government Code §554.002) cited in Chapter 1 states the agency may not take adverse personnel action against an employee who in good faith reports a violation of law to law enforcement, and includes the reporting timeframes required for protections to apply. The policy also states that the TxDMV is liable for supervisors who violate the Texas Whistleblower Act, and supervisors may be held personally liable for their actions.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The Human Resources Manual also details the complaint process for an employee who believes they have been retaliated for reporting a violation of law</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>----------------------</td>
<td>---------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>9 Define policy scope and applicability</td>
<td>Present in Manual</td>
<td>Purpose of Policy (Chapter 2, Section 4)</td>
<td>Purpose statement indicates the policy is designed for employees and recognizes state and federal laws supersede the policy.</td>
</tr>
<tr>
<td>10 Describe conduct considered fraud, waste, and abuse under the policy</td>
<td>Present in Manual</td>
<td>Ethics Standards of Conduct; Ethics – Additional Standards of Conduct (Chapter 2, Section 4)</td>
<td>Examples of ethical conduct violations, some of which are fraud, waste and abuse examples, are listed in the Ethics Standards of Conduct. To clarify what activities should be reported under the fraud policy, conduct considered fraud, waste and abuse should also be listed in the fraud policy.</td>
</tr>
<tr>
<td>11 Establish investigative authority, including authorized parties, scope of investigative authority, and investigative procedures</td>
<td>Present in Manual</td>
<td>Discrimination Complaints (Chapter 14, Section 3)</td>
<td>Responsibilities for a supervisor, division director, and the Civil Rights Officer in a discrimination, harassment, and retaliation complaints are detailed. In addition, divisions may have specific division-level fraud procedures which supplement the TxDMV’s agency-wide policy. For example, the Internal Audit Division has a policy for evaluating reports of fraud, waste and abuse it receives, determining if an investigation is required, notifying internal and external parties about the fraud, and assisting other divisions with fraud complaint responses and investigations. However, the Human Resources Manual does not address which individuals or divisions within the agency are authorized or responsible for investigating fraud complaints.</td>
</tr>
<tr>
<td>12 Establish confidentiality requirements and expectations for fraud complaints and investigations</td>
<td>Present in Manual</td>
<td>Confidentiality (Chapter 2, Section1) Informal Resolution Procedures; Confidentiality (Chapter 2, Section 2) Confidentiality (Chapter 14, Section 3)</td>
<td>Confidentiality requirements are specified for harassment, sexual harassment, and discrimination complaints. However, confidentiality expectations are not specified for fraud complaints.</td>
</tr>
<tr>
<td>13 Require investigations be conducted by objective parties</td>
<td>Present in Manual</td>
<td>Discrimination Complaints (Chapter 14, Section 3)</td>
<td>Responsibilities for a supervisor, division director, and the Civil Rights Officer in discrimination, harassment, and retaliation complaints are detailed in the Human Resources Manual.</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>----------------------</td>
<td>---------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Harassment (Chapter 2, Section 1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14 Define fraud, waste and abuse</td>
<td>Not Present</td>
<td>Fraud (Chapter 2, Section 4)</td>
<td>The policy may create confusion as to what activities are covered as it does not define the terms fraud, waste, abuse, or non-compliance with laws, rules or regulations. Also, employees are required to prevent and detect one type of activities and report other types of activities (see number 15).</td>
</tr>
<tr>
<td>15 Assign responsibility for fraud prevention, detection, reporting and investigation</td>
<td>Not Present</td>
<td>Fraud (Chapter 2, Section 4)</td>
<td>The fraud policy assigns responsibility to employees for preventing and detecting criminal conduct and non-compliance with laws and department policies and reporting suspected fraud, waste, abuse or non-compliance with laws, rules or regulations. The fraud policy identifies both the internal audit director and the State Auditor's Office as entities to whom to report fraud. The State Auditor's Office contact information is included in the policy. However, the Human Resources Manual does not address which individuals or divisions within the agency are authorized or responsible for investigating fraud.</td>
</tr>
<tr>
<td>16 Prohibit investigation by non-authorized parties</td>
<td>Not Present</td>
<td>N/A</td>
<td>The Human Resources Manual does not address the agency's expectations on who should not investigate suspected fraud. Unauthorized investigations could lead to evidence being compromised.</td>
</tr>
<tr>
<td>17 Establish agency personnel training requirements</td>
<td>Not Present</td>
<td>Purpose of Policy; New Employee Orientation (Chapter 10, Section 4)</td>
<td>All new employees receive and acknowledge receipt of the Ethics Standards of Conduct, which includes the Fraud Policy, on the first day of employment with the TxDMV. In addition, the TxDMV requires new employees to attend New Employee Orientation within the first 30 days of employment, which includes some discussion of the fraud policy. Fraud training requirements for employees, supervisors, and persons responsible for investigations have not been established and implemented.</td>
</tr>
<tr>
<td>18 Define what is not considered fraud, waste and abuse under the policy.</td>
<td>Not Present</td>
<td>N/A</td>
<td>Defining what is not considered fraud, waste, and abuse can help employees differentiate performance and general workplace issues from potential fraud.</td>
</tr>
</tbody>
</table>
The level of effort needed to implement the fraud topics that are not addressed in the current TxDMV fraud policy range from not difficult to very difficult. Defining what should and should not be considered under the fraud policy and prohibiting investigation by non-authorized parties should not be difficult (see Chapter 2 for some definitions). Establishing investigative steps and assigning responsibility for fraud prevention, detection, reporting and investigation may be moderately difficult. Establishing and implementing personnel training requirements may be very difficult.

Fifteen internal audit departments from various state agencies and universities (entities) provided information on their anti-fraud practices. A summary of this information is as follows:

- 12 of the 15 entities (80 percent) that internal audit surveyed reported using either an internal fraud hotline (8 agencies) or external third-party vendor to operate a fraud hotline (4 agencies)
- 7 of the 15 entities (48 percent) used their internal audit division as points-of-contact for tracking and investigating fraud, waste, and abuse, including vendor fraud. At 27 percent, legal counsel or a compliance officer was the second-most frequently used resource
- Some entities also reported using a multi-functional team to follow-up on fraud allegations. Team members generally consisted of internal audit, legal counsel, human resources, and an ombudsman. In addition, purchasing departments, an agency’s dedicated fraud unit, the State Auditor’s Office, or local law enforcement may also be involved depending on the type of fraud alleged
Recommendation

1.1 The TxDMV should update its fraud policy to clearly communicate requirements for preventing detecting, investigating, and reporting fraud.

Management’s Response

Recommendation 1.1

Management agrees with the recommendation that it should update its fraud policy to clearly communicate requirements for preventing, detecting, investigating and reporting fraud, waste and abuse. The TxDMV has formed the Anti-Fraud, Waste and Abuse Working Group composed of a cross section of agency staff focused on the development of an anti-fraud, waste and abuse program within the agency. Various subcommittees of the working group have been formed to address specific aspects of the program’s development. The Prevention and Training Subcommittee will develop a draft policy based off of this recommendation for consideration by the full working group. The Anti-Fraud, Waste and Abuse Working Group will make a final recommendation to TxDMV leadership for policy implementation by April 30, 2016.
Chapter 2: The TxDMV Needs to Increase Agency-wide Fraud, Waste and Abuse Awareness

Internal Audit administered an anonymous survey to all 732 TxDMV employees. The survey was designed to assess TxDMV employees’ general knowledge of fraud and the TxDMV’s fraud reporting procedures, and employees’ confidence in the TxDMV’s treatment of reported fraud.

The sample size was 486 responses for a survey response rate of 66 percent. This sample size provided a 95 percent confidence level that the sample accurately reflected the population within a 3 percent margin of error. The results of the survey can be found in Appendix 4 of this report.

TxDMV employees want more fraud awareness training.

The TxDMV fraud policy includes fraud, waste, abuse and non-compliance with laws, rules, and regulations (see textbox for definitions). Survey respondents were asked to identify violations of the TxDMV’s fraud policy from a list of five choices. Four of the five answer choices were examples of potential violations of the fraud policy and one was a security violation. The responses to this question suggest that staff would benefit from receiving training on the agency’s fraud policy. For example, analysis of the results showed the following:

- 7 percent of respondents correctly identified all four examples of fraud policy violations
- 67 percent of respondents incorrectly identified “leaving workstation unsecured” as a fraud violation. This is a violation of the agency information security policy, but it is not a fraud violation per the agency’s policy

The survey also asked employees to suggest actions the TxDMV can take to help them to report fraud, waste, and abuse. Of the 289 employee comments, the most frequent suggestion (116 comments) was for training to identify warning signs of fraud, and how to report suspected fraud, waste, and abuse. These employees also suggested the agency create greater awareness of fraud resources and topics, such as more visible access to the TxDMV’s fraud reporting resources and fraud policy, and periodic discussions about fraud-related incidents involving the agency. For example, e-mail distributions or posts to the TxDMV’s intranet are highly visible platforms for fraud-related topics.

Fraud, Waste, and Abuse Defined

- **Fraud** involves the obtaining of something of value through willful misrepresentation. Whether an act is, in fact, fraud is a determination to be made through the judicial or other adjudicative system and is beyond the auditor’s professional responsibility.

- **Waste** involves the taxpayers not receiving reasonable value for money in connection with any government funded activities due to an inappropriate act or omission by players with control over or access to government resources (e.g., executive, judicial or legislative branch employees, grantees or other recipients). Importantly, waste goes beyond fraud and abuse and most waste does not involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions and inadequate oversight.

- **Abuse** involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. Abuse does not necessarily involve fraud, or noncompliance with provisions of laws, regulations, contracts, or grant agreements.

Source: U.S. Government Accountability Office
Employees are most likely to report observations or suspicions of fraudulent activity to a supervisor.

The survey asked employees to whom they would be most likely to report suspicions of fraudulent activity. Survey results indicated that 92 percent of employees would be most likely to report suspected fraud to their supervisor or manager, consistent with the TxDMV’s current fraud policy. Employees are next most likely to report suspected fraud to the TxDMV’s Human Resources or Internal Audit Divisions (see Figure 1).

**Figure 1**

Where Employees Will Likely Report Fraud

<table>
<thead>
<tr>
<th>Where Employees Will Likely Report Fraud</th>
<th>Very Likely</th>
<th>Somewhat Likely</th>
<th>Would Not</th>
<th>Unsure</th>
</tr>
</thead>
<tbody>
<tr>
<td>TxDMV Supervisor or Director</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TxDMV Human Resources</td>
<td>29%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TxDMV Internal Audit</td>
<td>28%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TxDMV Office of General Counsel</td>
<td>28%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TxDMV Executive Director or Deputy</td>
<td>25%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive Director</td>
<td>21%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>External state agency</td>
<td>19%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>External third-party hotline</td>
<td>10%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TxDMV Board</td>
<td>10%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: A total of 472 out of 486 respondents answered this question (14 respondents did not answer this question).
TxDMV employees are very confident or somewhat confident (83.4 percent) the TxDMV would conduct a thorough and fair investigation if they reported fraud, waste, or abuse (see Figure 2). Employees who were either not confident or unsure about fraud investigations conducted by the TxDMV represented 16.5 percent of respondents. To improve employee’s confidence in TxDMV investigations, it is important to understand why 9.1 percent of employees are not confident and 7.4 percent are unsure.

Figure 2

![Employee Confidence that TxDMV Fraud Investigations will be Thorough and Fair](Image)

Note: A total of 471 out of 486 respondents answered this question (15 respondents did not answer this question).

An analysis of employees’ survey comments provided insight as to why employees may be reluctant to report suspected fraud. Employees expressed prior experience with agency officials ignoring employees’ concerns, conducting inadequate investigations, and not holding management accountable for their actions.

Respondents were also asked for feedback on steps the TxDMV could take to encourage employees to report fraud. We received 254 responses providing 289 comments, which included the following (see Table 5 in Appendix 4 for a summary of all comments):

- 84 comments were requests for an anonymous and confidential reporting method, such as a third-party hotline or a central electronic or physical drop box for TxDMV offices. Requests for anonymity and confidentiality often stem from concerns of retaliation against the complainant
- 22 comments expressed retaliation concerns for reporting suspected fraud
- 17 comments requested that fraud investigations be conducted free from bias or favoritism. Some suggested the formation of a separate investigative unit to handle fraud allegations and investigations
An effective anti-fraud program relies on employees feeling comfortable to bring concerns forward. Tips are consistently the most common fraud detection method, according to the 2014 Report to the Nations on Occupations Fraud and Abuse. Over 40 percent of all cases were detected by a tip, more than twice the rate for other detection methods. Also, employees accounted for nearly half of all tips that resulted in uncovering fraud. Organizations with hotlines were more likely to catch fraud by a tip, experienced fraud that were 41 percent less costly, and detected frauds 50 percent more quickly.

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4 The Report to the Nations on Occupations Fraud and Abuse is conducted annually by the Association of Fraud Examiners. The online survey for the 2014 report was opened to 34,615 Certified Fraud Examiners from October 2013 to December 2013.
Chapter 3: A Fraud Risk Assessment is Necessary to Design and Implement Activities to Lessen or Eliminate Fraud Risks

The TxDMV currently has no estimate on revenue lost to fraud. Participants in a 2014 Association of Certified Fraud Examiners (ACFE) survey estimated that the typical organization loses five percent of revenues each year to fraud. Motor vehicle transactions generate revenue for the State, the Texas Comptroller’s Office, the Texas Department of Transportation, the TxDMV, and county offices and their authorized deputies. This same survey found that the presence of anti-fraud controls is associated with reduced fraud losses and shorter fraud duration.

Responding to the threat of fraud requires understanding potential areas that are at risk, recognizing fraud-related threats, and understanding the potential fraud-origination points, both internal and external. The ACFE identifies three elements of the fraud triangle, a model for explaining the factors that, in combination, lead to fraudulent behavior.

- **Opportunity.** Circumstances are present that allow fraud to take place. Gaps in internal controls, noncompliance or management override of controls, and collusion among multiple parties may create opportunities for fraud to occur.

- **Pressure.** Incentives to act fraudulently ultimately overcome the pressures or incentives to act honestly. Common pressures are personal financial hardship or unrealistic performance goals.

- **Rationalization.** A person’s own psychological justification for committing fraudulent acts. For example, employees can rationalize committing fraud if they believe they are underpaid, overworked, or underappreciated.

Reduction of fraud risk requires a thoughtful, comprehensive, proactive approach. A periodic fraud risk assessment can assist the TxDMV reduce or eliminate opportunities to commit fraud. The TxDMV can use the fraud risk assessment to prioritize anti-fraud activities given limited resources.

One model for a fraud risk management approach was developed by the U.S. Government Accountability Office, specifically for use by government agencies (see Figure 3). This model

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consists of assessing fraud risks, designing and implementing specific anti-fraud activities, evaluating and adapting anti-fraud activities, and committing to combat fraud.

Figure 3

Fraud Risk Management Framework
Recommendation

3.1 TxDMV should adopt a fraud risk management framework.

Management’s Response

Recommendation 3.1

Management agrees with the recommendation that it should adopt a fraud risk management framework. This four-part framework itself will be adopted by the department immediately. TxDMV management has already implemented the first element of the framework and has shown its commitment to combating fraud by forming a working group devoted to developing a robust program to combat fraud, waste and abuse. The working group will use the recommended fraud risk management framework as a basis for its activities moving forward. Those activities include but will not be limited to planning a risk assessment to determine its fraud risk profile, designing and implementing specific controls and activities to mitigate those identified fraud risks and then evaluating the outcomes of those controls and activities to determine their effectiveness.
Appendix 1: Objectives, Scope, and Methodology

Objectives
The objectives of this project were:

- To assess the TxDMV staffs' preparedness and knowledge about their role in preventing, detecting, and reporting fraud, waste, and abuse
- To make recommendations to implement a robust agency-wide fraud prevention program

Scope and Methodology
The scope of this project was the TxDMV’s fraud prevention, detection, and reporting policies and processes. We reviewed the TxDMV’s fraud policy and compared it to model fraud policies. We surveyed TxDMV employees to assess their knowledge of fraud and the TxDMV’s fraud procedures and their confidence in the TxDMV’s fraud investigation capabilities. We also surveyed members of the State Agency Internal Audit Forum to collect information on other state agencies’ internal assignments for receiving, tracking, investigating, and reporting on fraud complaints.

Project Information
This project was included in the TxDMV Internal Audit Plan for Fiscal Year 2016. This project was an advisory service (also known as non-audit service); therefore, the information in this report was not subjected to all the tests and confirmation that would be performed in an audit. However, the information in this report was subject to certain quality assurance procedures to ensure accuracy.

This project was conducted in conformance with the International Standards for the Professional Practice of Internal Auditing.

Information and documents that we reviewed included the following:

- Texas Occupations Code, §2301.153 “General Powers of the Board”
- Texas Transportation Code, §1001.002 “Creation of Department; Duties”
- Texas Department of Motor Vehicles Human Resources Manual, September 2015
- Texas Whistle Blower Act (Texas Government Code §554)
- State Agency Ethics Policy (Texas Government Code §572.051)
- Texas Executive Order No. RP-36 “relating to preventing, detecting, and eliminating fraud, waste and abuse”
- Texas Attorney General’s Office Model Ethics Policy for State Agencies
- Association of Certified Fraud Examiners Sample Fraud Policy
- Association of Certified Fraud Examiners Fraud Risk Assessment Tool Module 1 – Employee Assessment
- Association of Certified Fraud Examiners Fraud Risk Assessment Tool Module 2 – Management/Key Employee Assessment
- 2014 Report to the Nations on Occupational Fraud and Abuse, Association of Certified Fraud Examiners
- Texas Parks and Wildlife Department Fraud Policy
• University of Texas Suspected Dishonest or Fraudulent Activities Operating Procedure 3-1021
• University of Texas Conflict of Interest, Conflict of Commitment, and Outside Activities Operating Procedure 5-2011
• University of Texas Individual Conflict of Interest Operating Procedure 5-2010
• University of Texas Criminal Background Checks Operating Procedure 5-1140
• University of Texas Policies and Procedures for Discipline and Dismissal of Employees Operating Procedure 5-2420
• University of Texas Identity Theft Prevention, Detection, and Mitigation Program Operating Procedure 3-2040
• Compliance Communicator, Texas Department of Transportation, Office of Compliance, Ethics and Investigations, Spring 2015
• TxDOT Watch Anonymous Reporting System, Texas Department of Transportation, Office of Compliance
• Texas Department of Motor Vehicles Internal Audit Division Policies and Procedures Manual, Section 3.1, Fraud

The following contributed to this report:

• Sandra H. Vice, CIA, CGAP, CISA, TxDMV Internal Audit Director
• Arby J. Gonzales, CPA, CFE, TxDMV Internal Audit Deputy Director
• Derrick D. Miller, TxDMV Internal Audit Senior Auditor

Report Distribution

The Texas Internal Auditing Act (Texas Government Code, Chapter 2102) requires that periodic internal audit reports of an agency’s major systems and controls be filed with the following entities:

• Board of the Texas Department of Motor Vehicles
• Governor’s Office of Budget, Planning, and Policy
• Legislative Budget Board
• State Auditor’s Office
• Sunset Advisory Commission

This engagement is an advisory service and not a periodic internal audit report. Therefore, this report will be distributed to the TxDMV Board and is available to others upon request.
Appendix 2: Current TxDMV Fraud Policy

Fraud

Employees must exercise due diligence to prevent and detect criminal conduct and non-compliance with laws and department policies. Employees must report suspected fraud, waste, abuse, or non-compliance with laws, rules or regulations by using any of the following methods:

- Report incident to their immediate supervisor, manager or division director. If the employee suspects their immediate supervisor or any other supervisor or manager is involved in the wrongful activity, the employee must report the incident to a higher level of management;
- Report the incident to the department’s director of internal audit; or
- Contact the State Auditor’s Office to report incident at 1-800-TX-AUDIT (1-800-892-8348) or report online on the State Auditor’s website.

Source: Texas Department of Motor Vehicles Human Resources Manual (September 2015), Chapter 2 Workforce Expectations, Section 4 Employee Conduct
Appendix 3: Association of Certified Fraud Examiners Sample Fraud Policy

Background
The corporate fraud policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud against ABC Corporation. It is the intent of ABC Corporation to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

Scope of Policy
This policy applies to any irregularity, or suspected irregularity, involving employees as well as shareholders, consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with ABC Corporation (also called the Company).

Any investigative activity required will be conducted without regard to the suspected wrongdoer’s length of service, position/title, or relationship to the Company.

Policy
Management is responsible for the detection and prevention of fraud, misappropriations, and other irregularities.

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury.

Each member of the management team will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

Any irregularity that is detected or suspected must be reported immediately to the Director of _____________, who coordinates all investigations with the Legal Department and other affected areas, both internal and external.

Actions Constituting Fraud
The terms defalcation, misappropriation, and other fiscal irregularities refer to, but are not limited to:

- Any dishonest or fraudulent act
- Misappropriation of funds, securities, supplies, or other assets
- Impropriety in the handling or reporting of money or financial transactions
- Profiteering as a result of insider knowledge of company activities
- Disclosing confidential and proprietary information to outside parties
- Disclosing to other persons securities activities engaged in or contemplated by the company
- Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to the Company. Exception: Gifts less than $50 in value.
- Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment; and/or
- Any similar or related irregularity
Other Irregularities

Irregularities concerning an employee’s moral, ethical, or behavioral conduct should be resolved by departmental management and the Employee Relations Unit of Human Resources rather than the _______________ Unit.

If there is any question as to whether an action constitutes fraud, contact the Director of _______________ for guidance.

Investigation Responsibilities

The _______________ Unit has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. If the investigation substantiates that fraudulent activities have occurred, the _______________ Unit will issue reports to appropriate designated personnel and, if appropriate, to the Board of Directors through the Audit Committee.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final decisions on disposition of the case.

Confidentiality

The _______________ Unit treats all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify the _______________ Unit immediately, and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act (see Reporting Procedure section below).

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the Company from potential civil liability.

Authorization for Investigating Suspected Fraud

Members of the Investigation Unit will have:

Free and unrestricted access to all Company records and premises, whether owned or rented; and

The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation.

Reporting Procedures

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.
An employee who discovers or suspects fraudulent activity will contact the _____________ Unit immediately. The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the Investigations Unit or the Legal Department. No information concerning the status of an investigation will be given out. The proper response to any inquiries is: “I am not at liberty to discuss this matter.” Under no circumstances should any reference be made to “the allegation,” “the crime,” “the fraud,” “the forgery,” “the misappropriation,” or any other specific reference.

The reporting individual should be informed of the following:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Legal Department or _____________ Unit.

**Termination**

If an investigation results in a recommendation to terminate an individual, the recommendation will be reviewed for approval by the designated representatives from Human Resources and the Legal Department and, if necessary, by outside counsel, before any such action is taken. The _____________ Unit does not have the authority to terminate an employee. The decision to terminate an employee is made by the employee’s management. Should the _____________ Unit believe the management decision inappropriate for the facts presented, the facts will be presented to executive level management for a decision.

**Administration**

The Director of _____________ is responsible for the administration, revision, interpretation, and application of this policy. The policy will be reviewed annually and revised as needed.

**Approval**

__________________________________  ____________
(Executive)  Date
Appendix 4: Employee Fraud Awareness Survey and Results Analysis

The TxDMV Internal Audit Division created and administered an employee fraud awareness survey. The survey was opened from December 1, 2015 to December 9, 2015 to all 732 TxDMV employees. Employees submitted 486 survey responses, a response rate of 66 percent. The following are the survey questions and a summary of responses.

Table 2

<table>
<thead>
<tr>
<th>Question 1: Which of the following may be a violation of the fraud policy?</th>
<th>Number of Respondents</th>
<th>Percent of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Noncompliance with agency rules and regulations</td>
<td>377</td>
<td>77.6%</td>
</tr>
<tr>
<td>B. Disclosing confidential information</td>
<td>402</td>
<td>82.7%</td>
</tr>
<tr>
<td>C. Falsifying time worked on timesheets</td>
<td>470</td>
<td>96.7%</td>
</tr>
<tr>
<td>D. Receiving gifts/payments from a vendor</td>
<td>382</td>
<td>78.6%</td>
</tr>
<tr>
<td>E. Leaving workstation unsecured during lunch break</td>
<td>325</td>
<td>66.9%</td>
</tr>
</tbody>
</table>

Table 3

<table>
<thead>
<tr>
<th>Question 2: If you observed, or otherwise suspected fraudulent activity, to whom would you be most likely to report your observations/suspicions?</th>
<th>Very Likely to Report</th>
<th>Somewhat Likely to Report</th>
<th>Would Not Report</th>
<th>Unsure</th>
</tr>
</thead>
<tbody>
<tr>
<td>TxDMV Supervisor or Director</td>
<td>434</td>
<td>91.9%</td>
<td>26</td>
<td>5.5%</td>
</tr>
<tr>
<td>TxDMV Human Resources</td>
<td>137</td>
<td>29.0%</td>
<td>183</td>
<td>38.8%</td>
</tr>
<tr>
<td>TxDMV Internal Audit</td>
<td>110</td>
<td>23.3%</td>
<td>131</td>
<td>27.8%</td>
</tr>
<tr>
<td>TxDMV Office of General Counsel</td>
<td>78</td>
<td>16.5%</td>
<td>134</td>
<td>28.4%</td>
</tr>
<tr>
<td>TxDMV Executive Director or Deputy Executive Director</td>
<td>67</td>
<td>14.2%</td>
<td>120</td>
<td>25.4%</td>
</tr>
<tr>
<td>External agency (State Auditor's Office, Office of Attorney General)</td>
<td>41</td>
<td>8.7%</td>
<td>89</td>
<td>18.9%</td>
</tr>
<tr>
<td>External third-party (vendor-run hotline)</td>
<td>32</td>
<td>6.8%</td>
<td>46</td>
<td>9.7%</td>
</tr>
<tr>
<td>TxDMV Board</td>
<td>31</td>
<td>6.6%</td>
<td>45</td>
<td>9.5%</td>
</tr>
</tbody>
</table>

Note: A total of 472 out of 486 respondents answered this question (14 respondents did not answer this question).
Table 4

<table>
<thead>
<tr>
<th>Response Options</th>
<th>Number of Respondents</th>
<th>Percent of Respondents</th>
<th>Number of Comments per Response</th>
<th>Percent of Comments per Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Confident</td>
<td>195</td>
<td>41.4%</td>
<td>0</td>
<td>0.0%</td>
</tr>
<tr>
<td>Somewhat Confident</td>
<td>198</td>
<td>42.0%</td>
<td>4</td>
<td>13.8%</td>
</tr>
<tr>
<td>Not Confident</td>
<td>43</td>
<td>9.1%</td>
<td>22</td>
<td>75.9%</td>
</tr>
<tr>
<td>Not Sure</td>
<td>35</td>
<td>7.4%</td>
<td>3</td>
<td>10.3%</td>
</tr>
</tbody>
</table>

Note: A total of 471 out of 486 respondents answered this question (15 respondents did not answer this question).

Table 5

| Question 4: What actions could the TxDMV take to help you to report fraud, waste, or abuse? |

254 survey respondents provided 289 comments and suggestions related to fraud (some provided multiple suggestions). The most frequent suggestions and comments included the following:

Suggestions

- 116 suggested training to identify warning signs of fraud, and how to report suspected fraud, waste, and abuse. These employees also suggested the agency create greater awareness of fraud resources and topics, such as more visible access to the TxDMV’s fraud reporting resources and fraud policy, and periodic discussions about fraud-related incidents involving the agency.

- 84 suggested an anonymous and confidential reporting method, such as a third-party hotline or a central electronic or physical drop box at TxDMV offices.

- 23 suggested creating a culture that discourages fraud and encourages fraud reporting through open door policies and acting timely on concerns raised by staff.

- 17 suggested that fraud investigations be conducted free from bias or favoritism. Some suggested the formation of a separate investigative unit to handle fraud allegations and investigations.

Comments

- 22 respondents expressed concern of retaliation for reporting suspected fraud.

- 19 respondents expressed prior experience with supervisors ignoring reports or not providing the results of investigations.
Appendix 5: Executive Director’s Management Response

February 04, 2016

Ms. Laura Ryan, Chairman
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

Subject: Implementing an Anti-Fraud, Waste and Abuse Program (TxDMV 16-2)

Dear Chairman Ryan:

The Internal Audit Division has completed the report on Implementing an Anti-Fraud, Waste and Abuse Program, which was included in the Internal Audit Plan for Fiscal Year 2016 as an advisory service. We provided the report to the TxDMV management for their review and comment; management responses are found at the end of Chapters 1 and 3 and in Appendix 5 of the report.

The objectives of this project were to:

- Assess the TxDMV staffs’ preparedness and knowledge about their role in preventing, detecting and reporting fraud, waste and abuse
- Make recommendations to implement a robust agency-wide fraud prevention program.

We thank TxDMV management and staff for their cooperation and assistance throughout this project, and especially to Sharon Brewer, Human Resources Division Director, for her assistance in reviewing the Human Resources Manual. Also, special thanks to TxDMV employees that completed this fraud awareness survey and to the State Agency Internal Audit Forum members that provided feedback on their agencies’ anti-fraud processes.

If you have any questions or comments, please contact me at (512) 465-4118 or Sandra.Vice@txdmv.gov.

Respectfully,

Sandra H. Vice, CIA, CGAP, CISA
Internal Audit Director

cc: Mr. Raymond Palacios, Chairman, Finance and Audit Committee
Ms. Luanne Caraway, Member, Finance and Audit Committee
Mr. William Marvin Rush, Member, Finance and Audit Committee
Mr. Gary Swindle, Member, Finance and Audit Committee
Mr. Blake Ingram, Board Member
Mr. Robert “Barney” Barnwell, Board Member
Mr. Guillermo “Memo” Treviño, Board Member
Mr. John H. Walker, III, Board Member
Ms. Whitney Brewster, TxDMV Executive Director
Ms. Shelly Mellott, TxDMV Deputy Executive Director
TxDMV Division Directors
December 1, 2015

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

Subject: Engagement Letter for Audit of the Texas Department of Motor Vehicle’s Internal Controls Related to the Driver’s Privacy Protection Act (DPPA)

Dear Ms. Brewster:

The Internal Audit Division (IAD) will be auditing the agency’s processes to protect the release and use of personal and highly restricted personal information in state motor vehicle records. The preliminary audit objectives are to:

- Determine whether the TxDMV’s processes for allowing internal and external users’ access to motor vehicle records complies with the DPPA
- Determine whether controls are in place to monitor internal and external users’ access to motor vehicle records

We will update you and other interested parties should audit objectives change.

Our work will involve the Finance and Administrative Services (FAS), Information Technology Services (ITS), and Vehicle Title and Registration (VTR) divisions. We will conduct the audit in accordance with generally accepted government auditing standards and the Institute of Internal Auditors International Professional Practices Framework.

We expect to release the audit report during the March 2016 board meeting.

We will meet periodically with management to discuss interim and final audit results. Before releasing the report, we will provide management with a confidential draft, and we will request formal written responses. These responses should objectively address the audit results and should include a corrective action plan, if necessary. The responses should be submitted to IAD within ten working days. The audit report will include management’s formal responses.

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

Sincerely,

Sandra Vice, CIA, CGAP, CISA
Internal Audit Director
cc: Ms. Laura Ryan, Chairman, TxDMV Board
    Mr. Raymond Palacios Jr., Vice-Chairman, TxDMV Board
    Mr. Robert “Barney” Barnwell III, TxDMV Board
    Ms. Luanne Caraway, TxDMV Board
    Mr. Blake Ingram, TxDMV Board
    Mr. William Marvin Rush, TxDMV Board
    Mr. Gary Swindle, TxDMV Board
    Mr. Guillermo “Memo” Treviño, TxDMV Board
    Mr. John Henry Walker III, TxDMV Board
    Ms. Shelly Mellott, Deputy Executive Director
    Ms. Linda Flores, Chief Financial Officer
    Mr. Eric Obermier, Chief Information Officer
    Mr. Jeremiah Kuntz, Director, Vehicle Title and Registration division
Enterprise Projects Quarterly Report

February 4, 2016
By: Enterprise Project Management Office

Texas Department of Motor Vehicles
HELPING TEXANS GO. HELPING TEXAS GROW.
Consolidated Call Center

Consolidated Call Center (C³) Project applies an enterprise strategy to call center implementation.

Project Manager – S. Dokka
Business Owners – G. Booton, J. Archer
Executive Sponsor – S. Mellott

Project End Date: 30 November 2015

**Benefits to Public**
- Reduced call wait time
- Improved call distribution for call coverage
- Implementation of Virtual Hold and Customer Callback Features

**Benefits to Agency**
- Implementation of an Enterprise Call Center Strategy
- Improved call load management
- Improved agent resource utilization

**January 2016 Status**
- Overall: R
- Schedule: R
- Budget: G
- Scope: G
- Resources: Y

**Accomplishments – Last 30 Days**
- Installed Cisco Connectors for workforce management (WFM).

**Milestones – Next 30 Days**
- Implement Automated Surveys.
- Install WFM.
- Complete Redaction Testing and configuration.
- Present EIM/WIM options.

**Risk/Issues**
I – The Project End date was not met because 6 Features, Training, and Report Capability were not delivered by the vendors on time.

**Mitigation/Corrective Action**
- Extend Project and Purchase Order End Dates.
- Involve Purchasing and Legal in communications with vendors.
- Request a project schedule from the vendors.
**LACE**

LACE will manage the licensing of motor vehicle converters, manufacturers etc.; track litigation and enforcement cases.

**Project Manager** – M. Lucas  
**Business Owners** – D. Avitia, B. Harbeson, E. Sandoval  
**Executive Sponsor** – S. Mellott  
**Project End Date:** 27 March 2017

---

<table>
<thead>
<tr>
<th><strong>Benefits to Public</strong></th>
<th><strong>Benefits to Agency</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Improved Customer Service with a Web based, self-service application. Online submittal of protests and complaints Online tracking of licensee applications, protests, and complaints</td>
<td>• Reduced support costs and submission errors • Improved data sharing and accuracy • Integrated case management</td>
</tr>
</tbody>
</table>

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**January 2016 Status**

<table>
<thead>
<tr>
<th>Overall</th>
<th>Schedule</th>
<th>Budget</th>
<th>Scope</th>
<th>Resources</th>
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<tr>
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</tbody>
</table>

---

**August to December 2015 Trend Line**

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**Accomplishments – Last 30 Days**

• Completed Project Management Plan.  
• Completed Business Requirements Part 2.

---

**Milestones – Next 30 Days**

• Complete BRD Parts 1, 3 and 4.  
• Start Joint Application Design (JAD) Sessions.

---

**Risk/Issues**

**R – Existing Services Contract for Identropy Management excludes LACE Replacement.**

**R – Project schedule may be delayed by procurement of solution to add LACE to Identropy agreement.**

**I – BRD Parts 1,3 and 4 were not completed and signed by December 29, 2015.**

**I – JAD’s may not finish by end date.**

**I – Conga demo revealed possible issues with this solution. Delaying BRD.**

---

**Mitigation/Corrective Action**

• Consult Purchasing on solution to add LACE Replacement in Identropy Management Services Contract.

• Work with sense of urgency to determine solution with Purchasing.

• Meet with ENF, IV&V, and vendor to address issues and lock down BRDs.

• Rebaseline schedule with Joint Project Team and I&V.

• Change Deloitte’s Solution deliverable to “Conga and/or tools approved by TxDMV”.

---

**LACE Project Change Requests**

---

**LACE External Budget**

- Source: Automation
- Total External Budget: $10,093,862
- Budget Remaining: $3,997,161
- Expenditures & Encumbrances: $6,096,701

---

**LACE Plan vs Actuals**

- Plan vs Actuals: 2379 vs 2595

---

**Agenda Briefing Notebook**

128
RTS Refactoring will refresh the RTS technology by modernizing the core RTS system and provide business intelligence reporting capabilities.

Project Manager – D. Kester
Business Owner – J. Kuntz
Executive Sponsor – W. Brewster

Project End Date: 31 Dec 2018

---

**Benefits to Public**
- Improved Customer Service (system modernization provides opportunities for increased efficiency when implementing improvements)

**Benefits to Agency**
- Modernization of the RTS system and business intelligence reporting capabilities
- Transition RTS from TxDOT to the TxDMV infrastructure

---

### January 2016 Status

<table>
<thead>
<tr>
<th>Overall</th>
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<tr>
<td>Y</td>
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<td>Y</td>
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</tbody>
</table>

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### Resources

- **Requirements**: ✓
- **Design**: ✓
- **Development**: ✓
- **Test**: ✓
- **Deploy**: Y

---

### RTS Refactoring External Budget
- Source: Automation
- Total external budget: $62,020,840
- Budget Remaining, $3,635,789
- Expenditures & Encumbrances, $58,385,091

---

### Accomplishments – Last 30 Days
- Deployed Release 5 on 1/10/16, 1 week late
- Re-enabled High Availability Disaster Recovery (HADR) ability on 1/3/16.

---

### Milestones – Next 30 Days
- Deploy Release 6 on 1/30/16.
- Deploy Enterprise Reporting Quarter 2 (ERQ2) Release on 2/14/16.

---

### Risk/Issues

1. - Requirements for work stream (WS) 4 scope increased from 33,000 hours to 74,000 hours.

2. - Limited environments for Dev and Test present schedule and quality constraints.

---

### Mitigation/Corrective Action

- Obtain approval from ESC, GT, Board, and QAT to release SOW for increased scope.
- Submit PCR to ESC and GT to formalize approval of increased scope with no changes in budget or end date.
- Control costs so that added scope does not exceed budget.
- Develop a plan to address environment constraints and execute plan.

---

### Defect Management
- IT, EPMO, and Deloitte to collaborate on Defect Methodology and SOP. Create a defect dashboard to improve communication with end users, and across project teams. (See Project Processes).
Single Sticker Phase II implements the 90-day inspection window for vehicle registration and the 180-day inspection window for the used vehicles dealers.

Project Manager – T. Beckley
Business Owners – J. Kuntz, J. Archer
Executive Sponsor – W. Brewster
Project End Date: 31 March 2016

Benefits to Public
- Provides a single "Registration and Safety Inspection" Sticker process
- Aligns Safety Inspection and Registration time frames
- Reduces unsafe and environmentally unfriendly vehicles on Texas roads

Benefits to Agency
- Compliance with of HB 2305
- Automates TxIRP solution for Motor Carrier Division

January 2016 Status

<table>
<thead>
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<td>Y</td>
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</tbody>
</table>

August to December 2015 Trend Line

Accomplishments – Last 30 Days
- Provided HEB with code to test.
- Continued design and coding RTS WS4 Release 7 (Single Sticker PII application changes).
- Continued Public Information Campaign.
- Received proposal for TxIRP changes.

Risk/Issues
I – Buyer Tag and Inspection Fee requirements for RTS and webDealer were overlooked during design, resulting in this feature being implemented late in the schedule.

Mitigation/Corrective Action
- RTS POS implementation is currently being developed and will be in place for the March release.
- Working with the webDealer team to align the webDealer portion with their eTag release, which requires an RTS web service prior to the eTag release.
- Working with Deloitte and TxDMV project management to determine best way to implement.

Milestones – Next 30 Days
- Start testing in RTS WS 4 Release 7.
- Award contract for TxIRP Single Sticker implementation.
- Award contract for Public Information Campaign.
webDEALER allows a vehicle title to be created, stored and transferred in electronic form, improving the speed and accuracy of the titling process.

Project Manager – G. Wessels
Business Owner – T. Thompson
Executive Sponsor – J. Kuntz
Project End Date: 02 February 2017

webDEALER External Budget
Source: Automation
Total External Budget: $5,695,525

- Budget Remaining $1,007,271
- Expenditures & Encumbrances $4,688,254

Accomplishments – Last 30 Days
- Adoption Rate Improvement-SAT, coordinated RTS dependency release.
- Salvage-ID Management Solution - Development Server access complete, Test / Production Server access rules in review. Project Plan, Business and Technical requirements in review.
- Salvage-Payment Gateway- submitted waiver.
- GT approved De-scope Private Party Sales.
- ESC approved webDEALER budget reduction of external $761,171. Request GT approval. QAT report total budget will be $8,932,311.

January 2016 Status

Overall | Schedule | Budget | Scope | Resources
--- | --- | --- | --- | ---
Y | Y | G | Y | Y

August to December 2015 Trend Line

Benefits to Public
- Reduced costs for titling and registration services from motor vehicle sales.
- Improved titling and registration time by reducing manual processes.

Benefits to Agency
- Reduced costs for the county tax office and TxDMV to title and register vehicles.
- Improved system to track and manage registration and title services from Motor Vehicle Sales.
- Eliminates RSPS-DTA Processes.

Risk/Issues
R- Payment Gateway Solution for Salvage may not be ready by Salvage deployment date.

Mitigation/Corrective Action
- Tx.gov waiver request submitted to DIR. Outcome pending. A work around has been established as a contingency.

Milestones – Next 30 Days
- Adoption Improvement – UAT, deploy 1/31.
- Salvage – Development of Payment Gateway and ID Management solution.
- eTAG – Development.
- Centralized Payment Requirements signoff.
- eTitles Requirements signoff.

webDealer Project Change Requests
Closed Projects

- Governance Team Meeting January 21, 2016
  - Regional Office Project
A BRIEFING ON THE MY PLATES CONTRACT PERFORMANCE

By: Vehicle Titles & Registration Division

February 4, 2016
SUMMARY
Revenue to the state’s General Revenue Fund increased $2.7 million during the first year of the renewed contract. Since renewing its contract in March 2014, My Plates has added five new plates and discontinued 55, bringing their total offering down to 111 plates.

HIGHLIGHTS
REVENUE COMPARISON
At 12/31/2015, when comparing the most recent 13-month period to the previous 13-month period of the contract with My Plates, revenue to GR increased by $2.7 million dollars. This is largely due to a change in royalty share in the renewed contract: GR now receives 95% of the revenue from renewals, instead of an average of 50% before 12/1/2014. Figures 1 and 2 on the next page graphically feature the annual revenue to GR each contract year.

PLATE INVENTORY MANAGEMENT
At the apex, there were 168 plates in the My Plates collection. The renewed contract requires 200 active motor vehicle registrations of a particular vendor plate in order for it to be viable enough to remain in the program. The contract requires My Plates to review the number of its plates registered monthly; write letters to promote partner-marketing for the low-selling plates, and write letters to customers, identifying their options, in the event a plate is discontinued. Similarly, new vendor plates are not produced until My Plates collects 200 pre-paid orders. Five plates contingently approved by TxDMV’s Board were not produced because of low pre-order sales. Figure 3 features a chart of the vendor plates discontinued to-date.

MY PLATES’ MARKETING ACTIVITIES
My Plates employs year-round marketing strategies, e.g. social media advertising, a Facebook website, an email newsletter to subscribers, a dealer incentive program and partner activities. My Plates supplements the year-round advertising with press releases, seasonal radio and TV ads, and tactical sales events like personalized plate pattern auctions.

TxDMV’S ASSISTANCE
In an effort to assist My Plates with its marketing efforts, in 9/2015, TxDMV began featuring My Plates’ banner ads on its website daily. Various web banner ads are scheduled to run through the end of 2017. In 1/2016, a specialty plate ad began to be featured on the department’s motor vehicle registration renewal return envelope. TxDMV mails an average of 1.9 million of these envelopes each month. Currently under discussion with My Plates: a video for TxDMV’s website and additional ads in TxDMV’s “e-reminder” motor vehicle registration emails.

TOP TEN
The department’s “Top-Ten” plates ranked by the number of vehicles registered, is featured in Figure 4.
Figure 1

**Revenue to GR by vendor contract year**

- **Annual Revenue**
  - $2,178,414
  - $4,693,921
  - $6,607,007
  - $6,766,464
  - $6,982,447
  - $8,650,292

- **Contract Year**
  - 0
  - 1
  - 2
  - 3
  - 4
  - 5
  - 6
  - 7

- **Legend**
  - Line 1: Revenue to GR
  - Line 2: Linear (Revenue to GR)

**Figure 1 data**
- Rev. to GR
  - Contract year 1: $2,178,414
  - Contract year 2: $4,693,921
  - Contract year 3: $6,407,007
  - Contract year 4: $6,766,464
  - Contract year 5: $6,982,447
  - Contract year 6: $8,650,292

Figure 2

**Revenue to GR from vendor new orders and renewals**

- **Annual Revenue**
  - $2,122,375
  - $4,095,249
  - $5,058,088
  - $5,148,851
  - $4,930,478
  - $4,848,421

- **Legend**
  - Filled: Revenue from renewals
  - Open: Revenue from new orders

**Figure 2 data**
- Revenue from new orders
  - Contract year 1: $2,122,375
  - Contract year 2: $4,095,249
  - Contract year 3: $5,058,088
  - Contract year 4: $5,148,851
  - Contract year 5: $4,930,478
  - Contract year 6: $4,848,421

- Revenue from renewals
  - Contract year 1: $56,039
  - Contract year 2: $598,672
  - Contract year 3: $1,058,088
  - Contract year 4: $1,622,613
  - Contract year 5: $2,095,668

- Combined revenue from both
  - $2,178,414
  - $4,693,921
  - $6,607,007
  - $6,766,464
  - $6,982,447
  - $8,650,292
### 55 Vendor plates discontinued to-date (under TC Sec. 504.851)

Note: Plates are added to this list quarterly. The most recent discontinued plates were added on 12/16/2015. More plates could be discontinued in 2017.

<table>
<thead>
<tr>
<th>COUNT</th>
<th>PLP CODE</th>
<th>IMAGE</th>
<th>PLATE NAME</th>
<th>DATE REMOVED FROM VENDOR WEBSITE</th>
<th>DATE RTS WAS PROGRAMMED TO END RENEWALS</th>
<th>PLATE TERMS VALID THROUGH</th>
<th>REASON</th>
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<td>PLP161</td>
<td><img src="image1.png" alt="Image" /> Houston Dynamo</td>
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<td>3</td>
<td>PLP183</td>
<td><img src="image3.png" alt="Image" /> Dr Pepper</td>
<td>Est 12/16/2015</td>
<td>TBD</td>
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<tr>
<td>4</td>
<td>PLP180</td>
<td><img src="image4.png" alt="Image" /> Our Energy (revised and marketed under the name &quot;Green Camo&quot; since 5/2013)</td>
<td>Est 12/16/2015</td>
<td>TBD</td>
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<td><img src="image11.png" alt="Image" /> Tyler JC Apache Belles</td>
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<td>PLP248</td>
<td><img src="image12.png" alt="Image" /> Phi Beta Sigma</td>
<td>9/16/2015</td>
<td>TBD</td>
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<td>PLP181</td>
<td><img src="image13.png" alt="Image" /> Sigma Gamma Rho</td>
<td>9/16/2015</td>
<td>TBD</td>
<td>11/30/2024</td>
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<td>PLP184</td>
<td><img src="image14.png" alt="Image" /> Ignite Stream Energy</td>
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<td>TBD</td>
<td>11/30/2024</td>
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<td><img src="image15.png" alt="Image" /> Texas B11</td>
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<td><img src="image16.png" alt="Image" /> Allen ISD</td>
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<td><img src="image17.png" alt="Image" /> Highland Park ISD</td>
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<td><img src="image19.png" alt="Image" /> KW Cares</td>
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<td><img src="image20.png" alt="Image" /> NASCAR 24 Jeff Gordon</td>
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<td><img src="image22.png" alt="Image" /> Pink Camo</td>
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<td>Texas Stars Hockey</td>
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<td><img src="image" alt="PLP 163" /></td>
<td>TX Alliance for Recycle</td>
<td>6/16/2015</td>
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<td>TX Motor Speedway</td>
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<td>PLP 123</td>
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<td>Texas Navy Admiral</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>By mutual agreement with vendor</td>
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<td>PLP 195</td>
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<td>Boise State University</td>
<td>3/31/2015</td>
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<td>PLP 192</td>
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<td>Coppell Cowboys</td>
<td>3/31/2015</td>
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<td>Fort Worth Cats Baseball</td>
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<tr>
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<td>36</td>
<td>PLP 204</td>
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<td>Freebirds</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
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<tr>
<td>37</td>
<td>PLP 218</td>
<td><img src="image" alt="PLP 218" /></td>
<td>Guadalupe River Trout</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>38</td>
<td>PLP 237</td>
<td><img src="image" alt="PLP 237" /></td>
<td>Keller High School</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>39</td>
<td>PLP 208</td>
<td><img src="image" alt="PLP 208" /></td>
<td>Lake Dallas ISD</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>40</td>
<td>PLP 268</td>
<td><img src="image" alt="PLP 268" /></td>
<td>Lee High School Midland</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>41</td>
<td>PLP 154</td>
<td><img src="image" alt="PLP 154" /></td>
<td>Liberty Christian School</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>42</td>
<td>PLP 153</td>
<td><img src="image" alt="PLP 153" /></td>
<td>Longview ISD</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>43</td>
<td>PLP 261</td>
<td><img src="image" alt="PLP 261" /></td>
<td>Midland High School</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>44</td>
<td>PLP 159</td>
<td><img src="image" alt="PLP 159" /></td>
<td>Nascar BB Dale Jr</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
</tbody>
</table>
**55 Vendor plates discontinued to-date (under TC Sec. 504.851)**

Note: plates are added to this list quarterly. The most recent discontinued plates were added on 12/16/2015. More plates could be discontinued in 2017.

<table>
<thead>
<tr>
<th>COUNT</th>
<th>PLP CODE</th>
<th>IMAGE</th>
<th>PLATE NAME</th>
<th>DATE REMOVED FROM VENDOR WEBSITE</th>
<th>DATE RTS WAS PROGRAMMED TO END RENEWALS</th>
<th>PLATE TERMS VALID THROUGH</th>
<th>REASON</th>
</tr>
</thead>
<tbody>
<tr>
<td>45</td>
<td>PLP 231</td>
<td><img src="image1" alt="Image" /></td>
<td>National Wild Turkey Federation</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>46</td>
<td>PLP 266</td>
<td><img src="image2" alt="Image" /></td>
<td>Odessa High School</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>47</td>
<td>PLP 269</td>
<td><img src="image3" alt="Image" /></td>
<td>Olympic Team USA</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>48</td>
<td>PLP 267</td>
<td><img src="image4" alt="Image" /></td>
<td>Permian High School</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>49</td>
<td>PLP 133</td>
<td><img src="image5" alt="Image" /></td>
<td>Sam Houston State University</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>By mutual agreement with vendor</td>
</tr>
<tr>
<td>50</td>
<td>PLP 242</td>
<td><img src="image6" alt="Image" /></td>
<td>Texas A&amp;M Corpus Christi</td>
<td>3/31/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>Low sales per renewed contract w/ vendor</td>
</tr>
<tr>
<td>51</td>
<td>PLP 227</td>
<td><img src="image7" alt="Image" /></td>
<td>Bishop Lynch High School</td>
<td>1/29/2015</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>By mutual agreement with vendor</td>
</tr>
<tr>
<td>52</td>
<td>PLP 219</td>
<td><img src="image8" alt="Image" /></td>
<td>Texas Roadhouse Restaurant</td>
<td>6/10/2014</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>By mutual agreement with vendor</td>
</tr>
<tr>
<td>53</td>
<td>PLP 134</td>
<td><img src="image9" alt="Image" /></td>
<td>Southern Methodist University</td>
<td>6/4/2014</td>
<td>5/30/2015</td>
<td>11/30/2024</td>
<td>By mutual agreement with vendor</td>
</tr>
<tr>
<td>54</td>
<td>PLP 149</td>
<td><img src="image10" alt="Image" /></td>
<td>Ford Motor Company-Oval</td>
<td>6/30/2013</td>
<td>4/30/2014</td>
<td>6/30/2023</td>
<td>By mutual agreement with vendor</td>
</tr>
<tr>
<td>55</td>
<td>PLP 172</td>
<td><img src="image11" alt="Image" /></td>
<td>Ford Motor Company-Tough</td>
<td>6/30/2013</td>
<td>4/30/2014</td>
<td>6/30/2023</td>
<td>By mutual agreement with vendor</td>
</tr>
</tbody>
</table>

**Count of vendor plates available at 12/2015**

- Approved: 168
- Plates whose RTS programming code was repurposed: -2
- Discontinued permanently: -55
- Vendor plates available for the public to buy: 111

**Count of ALL plates available at 12/2015**

- Military and qualifying plates with limited distribution: 186
- State specialty plates available to the general public: 117
- Vendor specialty plates available to the general public: 111
- Total: 414
### Plate Designs - Top 10 Military

<table>
<thead>
<tr>
<th>Military</th>
<th>Number Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disabled Veteran</td>
<td>185,862</td>
</tr>
<tr>
<td>Purple Heart</td>
<td>19,618</td>
</tr>
<tr>
<td>DV U.S. Army</td>
<td>16,324</td>
</tr>
<tr>
<td>U.S. Marine Corps.</td>
<td>10,284</td>
</tr>
<tr>
<td>Personalized U.S. Army</td>
<td>8,812</td>
</tr>
<tr>
<td>Vietnam Veteran</td>
<td>7,991</td>
</tr>
<tr>
<td>Personalized U.S. Air Force</td>
<td>7,144</td>
</tr>
<tr>
<td>DV U.S. Marine Corps.</td>
<td>6,771</td>
</tr>
<tr>
<td>U.S. Navy</td>
<td>6,661</td>
</tr>
<tr>
<td>DV Bronze Star</td>
<td>5,902</td>
</tr>
</tbody>
</table>

### Plate Designs - Top 10 State (Charity)

<table>
<thead>
<tr>
<th>State (Charity)</th>
<th>Number Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Plain&quot; PLP (renewals only)</td>
<td>44,337</td>
</tr>
<tr>
<td>TPWD Wildlife Conservation collection</td>
<td>21,842</td>
</tr>
<tr>
<td>Animal Friendly</td>
<td>12,197</td>
</tr>
<tr>
<td>State of the Arts</td>
<td>9,185</td>
</tr>
<tr>
<td>Pro Sports Teams collection</td>
<td>5,676</td>
</tr>
<tr>
<td>Native Texan</td>
<td>2,771</td>
</tr>
<tr>
<td>God Bless America</td>
<td>2,689</td>
</tr>
<tr>
<td>Texas A&amp;M University (renewals only)</td>
<td>2,444</td>
</tr>
<tr>
<td>Texas Tech University (renewals only)</td>
<td>2,255</td>
</tr>
<tr>
<td>Big Bend</td>
<td>2,117</td>
</tr>
</tbody>
</table>

### Plate Designs - Top 10 Vendor

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Number Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large Star Black/White</td>
<td>43,800</td>
</tr>
<tr>
<td>Texas Black 1845</td>
<td>15,651</td>
</tr>
<tr>
<td>Lone (Small) Star Black</td>
<td>9,474</td>
</tr>
<tr>
<td>T for Texas Black</td>
<td>9,316</td>
</tr>
<tr>
<td>Texas Vintage Black</td>
<td>4,295</td>
</tr>
<tr>
<td>Lone Star Black/Silver</td>
<td>3,461</td>
</tr>
<tr>
<td>Large Star Pink</td>
<td>3,334</td>
</tr>
<tr>
<td>Texas A&amp;M Maroon</td>
<td>3,327</td>
</tr>
<tr>
<td>White</td>
<td>3,164</td>
</tr>
<tr>
<td>Come &amp; Take It</td>
<td>2,926</td>
</tr>
</tbody>
</table>
Agenda Item 4.C.

(1) Continued 84th Legislature Implementation Efforts and

(2) Looking Ahead to the 85th Legislature

By: Government & Strategic Communications Division

February 4, 2016
Table of Contents

Introduction .................................................................................................................................................. 3
Summary of Implementation Efforts ............................................................................................................ 3
Single Sticker Continued Implementation .................................................................................................... 4
Looking Ahead: 85th Legislature .................................................................................................................... 4
Conclusion..................................................................................................................................................... 5
Introduction

The Texas Department of Motor Vehicles (TxDMV) aims to deliver excellent customer service to the public and stakeholders through providing user-friendly processes. There were several pieces of legislation passed by the 84th Legislature which will provide for additional efficiencies and effective delivery of services. Implementation efforts remain well underway, with a few highlights as noted below.

Summary of Implementation Efforts

The Government & Strategic Communications Division continues to monitor the implementation of legislation from the 84th Legislative Session that impacts TxDMV. Of the 71 enacted bill identified as having some level of implementation activity by the department, 34 of those have been fully implemented. Of the remaining 37 enacted bills, following is a summary of the implementation status.

- 8 bills are on hold due to prerequisite 3rd party actions such as specialty license plate design by the sponsor or actions from other agencies to establish guidelines or rules (such as contracting rules associated with SB 20 by Nelson)
- Of the 29 remaining bills solely within the purview of the department:
  - Two bills do not go into effect until September 1, 2016:
    - SB 1512 by Hancock recreating the TxDMV Fund
    - HB 735 by Israel relating to annual reporting on alternatively fueled vehicles registered in Texas
  - The remaining 27 bills are implemented from a practical and functional standpoint with the outstanding items being technical and procedural details such as updates to manuals and final rule adoptions remaining.

The department had requested an effective date of January 1, 2016 or later on selected legislation to allow for adequate programming and technical updates for full implementation to accommodate the Registration and Titling System (RTS) project. Many of those bills related to specialty license plates and other RTS-related functions such as donations offered during the registration process. Of note, those bills have been implemented, including the recent addition of donating to the Special Olympics and any amount to the Organ Donor program when completing vehicle registration. The legislative authors and they many stakeholder groups are aware of our implementation efforts and very pleased with the outcomes.

In addition, the TxDMV Board is scheduled to consider several items today related to implementation efforts, including:

- The final adoption of rules in Chapter 210 of the Texas Administrative Code related to contract management to comply with some of the provisions in SB 20 by Nelson (SP: Price), the state contracting legislation.
• The adoption of rules in Chapter 217 of the Texas Administrative Code which adds references to “autocycle” to reflect changes made to statute in **SB 449 by Bettencourt (SP: L. Gonzales)** allowing such vehicles to be registered and titled.

**Single Sticker Continued Implementation**

The department continues implementation efforts of **HB 2305 by E. Rodriguez (SP: Watson), 83rd Legislature** to inform Texas motorists of the requirements of the Two Steps, One Sticker – or “Single Sticker” – program where the vehicle registration sticker serves as proof of both inspection and registration. During this first year of implementation; which began March 1, 2015 and concludes at the end of February, 2016; motorists simply need to insure a vehicle has obtained a valid inspection prior to renewing registration to help synchronize vehicle inspection and registration expiration dates. The goal for the second year of Single Sticker implementation is to effectively leverage existing mechanisms and relationships to increase consumer awareness about the new 90-day inspection requirement that begins March 1, 2016, and minimize confusion about the process of vehicle inspection and registration renewal.

TxDMV issued a press release highlighting the requirements of this program on January 20, 2016. The release was covered by several news outlets around the state. Staff continues to utilize social media outlets, such as Twitter and Facebook, to highlight requirements, which has received several thousand views and shares in the past month. Our messaging has expanded to include calls to action for motorists with March 2016 renewal dates notifying them of their inspection time frame.

This aggressive social media promotion schedule is complemented by traditional media efforts, including upcoming articles provided to trade magazines (e.g., TIADA, TADA, TACA) and our Executive Director’s recent interview with KVUE in Austin on their Saturday, January 30 morning show.

Customizable press releases have been shared with the County Tax Assessor-Collectors for their use, as these were used to great effect during the first year of the Single Sticker campaign, particularly in rural areas, in both traditional and online/new media formats.

We continue our review of options for additional paid advertising opportunities and will provide the updates as initiatives progress further.

**Looking Ahead: 85th Legislature**

As a reminder, the Texas Transportation Code charges the TxDMV Board with considering opportunities for improvement and to recommend changes to statute to the Legislature. Section 1001.025(a) of the Transportation Code states: The board shall consider ways in which the department’s operations may be improved and may periodically report to the legislature concerning potential statutory changes that would improve the operation of the department. In addition the statute requires the Chair to send a report highlighting recommendations adopted
by the Board relating to the operation of the department to the Governor, Lieutenant Governor, Speaker, and presiding officers of relevant legislative committees.

To that end, the Government and Strategic Communications Division has begun the internal process of determining what legislative initiatives the Board may want to consider for the 85th Legislative Session which begins January 10, 2017. Over the next few months, staff will be analyzing statutes for opportunities to increase efficiencies and maximize our effectiveness as an agency. We will also work closely with the Board’s Legislative Committee on this effort, as well as TxDMV stakeholders during the summer months to identify recommended changes for the Board’s further consideration. The Board will receive a final report on these recommendations towards the end of this calendar year and receive regular updates on progress.

Conclusion
In addition to the many successful implementation efforts of the department, staff is continually researching opportunities to increase efficiencies and provide the best services possible to our customers and stakeholders. In the interim, the Texas Department of Motor Vehicles will continue to serve, protect and advance the citizens and industries in the state with quality motor vehicle related services.
To: Texas Department of Motor Vehicles Board  
From: Jimmy Archer, Director, Motor Carrier Division  
Agenda Item:  5.A.1  
Subject: Texas Permitting & Routing Optimization System (TxPROS)-Request for Offers for a New TxPROS Hosting and Maintenance Contract

RECOMMENDATION

Approval to seek a new contract to support the Texas Permitting and Routing Optimization System (TxPROS) to include maintenance, support and online web hosting services. The current contract with ProMiles Software Development Corporation (PSDC) expires March 31, 2016, with no remaining options to extend.

PURPOSE AND EXECUTIVE SUMMARY

The Motor Carrier Division (MCD) requests Board approval to issue a Request For Offers (RFO) for a new contract to support TxPROS. MCD seeks an initial contract period of 29 months in order to sync up the contract expiration with the fiscal year (Aug. 31 instead of March 31). The contract would include three renewals of two years each if agreed upon by both parties for a total of eight years and five months if all options were exercised in addition to the initial contract period, or through August 2024.

PSDC hosts TxPROS on its servers and provides annual maintenance/support (including software/technical support, bug fixes, documentation and quarterly GIS data updates, and 936 hours of enhancements). As part of its hosting services, PSDC provides full disaster recovery services with remote hosting (separate hosting location). TxPROS is exempt from being hosted at a state-maintained data center through a DIR waiver. Because PSDC developed TxPROS, the RFO will state that the contract may be proprietary under Government Code, §2155.067.

FINANCIAL IMPACT

Oversize/Overweight fee collections through TxPROS totaled $183.6 million for FY15 and 803,501 permits were issued through the system (including 11,945 Temporary Registrations which are no longer issued through TxPROS as of January 2015). The annual cost to operate TxPROS was about one dollar for every $402 in fees collected.

BACKGROUND AND DISCUSSION

PSDC worked with Motor Carrier Division staff and industry to develop TxPROS, which was launched in August 2011. TxPROS modernized oversize/overweight permitting and routing, allowing customers to apply for and receive permits and routes online, 24/7. The efficiency of the system has allowed TxDMV to accommodate an increase in demand for oversize/overweight permits. TxPROS is vital to TxDMV’s goal to properly maintain TxPROS which provides reliable and safe routes and permits to motor carriers moving oversize and overweight vehicles and loads on Texas highways.
To: Texas Department of Motor Vehicles Board  
From: Jimmy Archer, Director, Motor Carrier Division  
Agenda Item: 5.A.2  
Subject: Explore Contract for Texas International Registration Plan (TxIRP), Performance and Registration Information Systems Management (PRISM), and Fleet Registration (Renewal)

---

**RECOMMENDATION**

Approval of the contract with Explore Information Services to provide one year of software maintenance and support for the existing Texas International Registration Plan (TxIRP).

The current contract with Explore Information Services ends March 31, 2016.

**PURPOSE AND EXECUTIVE SUMMARY**

The Motor Carrier Division requests Board approval to renew the contract with Explore Information Services for one year of software maintenance and support for the existing Texas International Registration Plan (TxIRP). The current contract expires on March 31, 2016.

The Board approved a new contract with Explore Information Services in 2014. That contract includes an option for three 1-year renewals. With your approval, this will be the second of those three available renewals.

The contract supports the online TxIRP system and related components. The monthly cost is $26,691 and $320,292 annually.

**FINANCIAL IMPACT**

The procurement cost is up to $320,292.00 for 12 months of software maintenance and support ($26,691/month).

**BACKGROUND AND DISCUSSION**

In 2005, Texas Department of Transportation (TxDOT) entered into a contract with Explore Information Services to provide a proprietary base Custom-Off-the-Shelf (COTS) system with custom-developed modules specific to Texas (a Texas IRP system) and to implement and maintain this system as a replacement for their existing mainframe-based IRP system. Since system implementation, Explore Information Services has provided maintenance services for the software, updates and enhancements, and system support services on an ongoing basis per the direction of TxDOT/TxDMV staff.
MEMORANDUM

Texas Department of Motor Vehicles

TO: TxDMV Board Members

FROM: Jeremiah Kuntz, Director, VTR

SUBJECT: Specialty License Plate Recommendation

DATE: February 4, 2016

The TxDMV Board is responsible for approving or declining all proposed vendor and non-vendor specialty license plate applications pursuant to Texas Administrative Code, Title 43, Part 10, Chapter 217, Subchapter B, §217.52. Consideration of one specialty plate design will be on the board agenda for the February 2016 meeting.

The plate being proposed: Childhood Cancer Awareness, Non-Vendor. From the $30 specialty plate fee, $22 will go to the Texas General Land Office for grants for the Snowdrop Foundation to provide scholarships for pediatric cancer patients and survivors. The Snowdrop Foundation also intends to raise awareness as well as research cures for childhood cancer.

The application presented in this packet has been reviewed and certified complete; all legislatively required processes have been met. The rules do not allow the board to consider incomplete applications. Board members may request additional information from TxDMV to reach a decision. The resolution prepared for the meeting provides for approval or disapproval of the specialty license plates.

The attachment displays the design of the specialty license plate.

If you have questions or need additional information, please call me at (512) 465-4023.

Attachment
Attachment

<table>
<thead>
<tr>
<th>Proposed Specialty License Plate</th>
<th>Design Graphic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Childhood Cancer Awareness</td>
<td><img src="image_url" alt="Design Graphic" /></td>
</tr>
</tbody>
</table>
TEXAS DEPARTMENT OF MOTOR VEHICLES, PETITIONER v. FELA KOLEOSO D/B/A/ AMERICAN AUTO BUYERS CLUB, RESPONDENT; SOAH DOCKET NO. 608-15-4847.ENF; MVD DOCKET NO. 15-1370 ENF

EXECUTIVE SUMMARY

1. Background

Since the Board’s rules\(^1\) regarding criminal offenses and the fitness of applicants to hold a license went into effect in October 2014, this is the first time the Board is asked to consider whether an application for motor vehicle dealer licensure should be denied under those rules. The issue presented in this case is whether the Board should deny the application for a wholesale dealer license based upon the Applicant’s criminal history.

The Motor Vehicle Division (MVD) received an application from Mr. Fela Koleoso (Applicant) for a wholesale general distinguishing number (GDN) license. MVD’s review of the application included an evaluation of the Applicant’s criminal history. The Applicant has three federal felony convictions\(^2\):

1. Bank fraud by fraudulently obtaining credit cards in the name of another person and using credit cards repeatedly to withdraw money from ATMs;\(^3\)

2. Receiving mail in a fictitious name;\(^4\) and

3. Aggravated identity theft by stealing mail and using the information to apply for, possess, and use credit cards, debit cards, and checks using another person’s identity.\(^5\)

MVD’s evaluation of the application included consideration of the department’s authority and discretion to deny a license based on the Applicant’s criminal conviction background under:

- Occupations Code Chapter 53;
- Occupations Code §2301.651(a)(1); and
- Board rule 43 TAC §215.88 and §215.89.

Applying these provisions, MVD determined it would deny the application because the criminal convictions of the Applicant are directly related to the duties and responsibilities of a dealer. On June 11, 2015, MVD issued formal, written notice to the Applicant of the division’s decision to pursue denial of the application.

On July 6, 2015, the Applicant made a timely request for a contested case administrative hearing on MVD’s decision to deny the application for licensure.

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\(^1\) 43 Texas Administrative Code (TAC) §215.88 and §215.89, effective October 6, 2014 (39 Tex.Reg. 7960).

\(^2\) The three criminal convictions were verified through federal court records. Additionally, the Applicant verified these criminal convictions while testifying during the contested case hearing on the merits at SOAH.

\(^3\) SOAH ALJ’s Proposal for Decision (PFD) page 10, Finding of Fact (FOF) 2 (Nov. 20, 2015). Applicant was convicted on March 26, 1992.

\(^4\) PFD page 10, FOF 5. Applicant was convicted on March 22, 2010.

\(^5\) PFD page 10, FOF 5. Applicant was convicted on March 22, 2010.
On September 23, 2015, a contested case hearing was conducted by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH). Both the Applicant and the department were represented by counsel.

On November 20, 2015, the ALJ issued his Proposal for Decision (PFD), recommending that the Board deny the application for licensure. In support of his recommendation, the ALJ found that:

- The Applicant’s convictions were for serious felony crimes, requiring substantial jail time;
- the Applicant demonstrated a pattern of behavior over a span of decades in which the Applicant stole from others through the fraudulent use of identities;
- the three crimes for which the Applicant had been convicted each directly relate to duties and responsibilities of a dealer; and
- issuance of a GDN to the Applicant would enhance his opportunity to engage in further criminal activity of the same type for which he is known.

The Applicant did not file exceptions, briefs, or pleadings contesting the findings of fact or conclusions of law in the ALJ’s PFD.

2. Board Authority

- The Board is authorized to disqualify a person from receiving a license issued by the department if the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.
- The department’s rule states that the three crimes of bank fraud, receiving mail in a fictitious name, and aggravated identity theft directly relate to the duties and responsibilities of the occupation of wholesale motor vehicle dealer.
- The Board is authorized to deny an application for a license if an applicant is unfit under standards described in department rules.
- The Board is authorized to find an applicant unfit if convicted of bank fraud, receiving mail in a fictitious name, and aggravated identity theft.

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6 PFD page 11, Conclusion of Law (COL) 8.
7 PFD pages 8 and 10, FOF 11.
8 PFD pages 8 and 10, FOF 11.
9 PFD page 11, COL 6.
10 PFD pages 8 and 10, FOF 12.
11 Occupations Code §53.021(a)(1) and 43 TAC §215.88(j)(1).
12 43 TAC §215.88(j)(42).
13 Occupations Code §2301.651(a)(1).
14 43 TAC §215.89(b)(2) and an offense listed in §215.88(j)(42).
15 43 TAC §215.89(b)(2) and an offense listed in §215.88(j)(42).
16 43 TAC §215.89(b)(2) and an offense containing elements that are substantially similar to the elements in an offense listed in §215.88(j). In this instance, aggravated identity theft has elements substantially similar to fraud included at §215.88(j)(13).
• The Board may change a finding of fact or conclusion of law in a PFD only if it determines that:
  a. the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies or prior administrative decisions;
  b. a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
  c. that a technical error in a finding of fact should be changed.\(^\text{17}\)

3. SOAH ALJ’s Recommendation

The ALJ concluded that the applicable factors weigh against the Applicant. The ALJ recommended that the Board deny the application for licensure.\(^\text{18}\)

4. Staff Concerns

Staff has no concerns with the substance or the specific elements of the PFD. The record evidence fully supports the ALJ’s analysis. The conclusions reached by the SOAH ALJ in this case are reasonable and supported by the applicable law and facts.

5. Staff's Recommendation

Staff recommends the Board adopt the ALJ’s PFD with no changes to any findings of fact or conclusions of law. A draft Order is attached to this Executive Summary for the Board’s consideration.

6. Documents

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

1. Notice of Department’s Decision to Deny Application June 11, 2015
2. Applicant’s Request for Hearing Form July 6, 2015
3. SOAH ALJ’s PFD November 20, 2015
4. Draft Order for Board Consideration

\(^{18}\) PFD page 12, COL 8.
June 11, 2015

Mr. Fela Koleoso  
d/b/a American Auto Buyers Club  
525 N Sam Houston Pkwy E #360C  
Houston, Texas 77060

CERTIFIED MAIL – RETURN RECEIPT  
REQUESTED FIRST CLASS MAIL, EMAIL,  
AND FACSIMILE: (281) 416-5233

Re: Notice of the Department’s Decision to Deny Application for a General Distinguishing Number; MVD Work Item No. 829610; ENF Work Item No. 830762

Dear Mr. Koleoso:

This letter serves as legal notice to you that the Texas Department of Motor Vehicles (TxDMV) has made a decision to deny your application for a general distinguishing number (GDN). The referenced GDN license is also known as an independent motor vehicle dealer’s license. This notice is provided by the department to you in accordance with Board rule, 43 Texas Administrative Code (TAC) §215.500 and Occupations Code §2301.651.

Convictions

During the processing of your application, the department found that you were convicted of criminal offenses, including:

a. **Bank Fraud**, Class B Felony under United States Code, Title 18, Part 1, Chapter 63, Section 1344 (18 U.S.C. §1344) on or about January 30, 1992, in Cause Number 91-226-Cr-J-12 in the U.S. District Court of Florida; and

b. **Receiving Mail in a Fictitious Name**, a felony under United States Code, Title 18, Part 1, Chapter 63, Section 1342 (18 U.S.C. §1342); and **Aggravated Identity Theft**, a felony under United States Code, Title 18, Part 1, Chapter 47, Section 1028A (18 U.S.C. §1028A), both convictions on or about October 27, 2009, in Case No. 4:09CR00262-001 in the U.S. District Court, Southern District of Texas (Houston).

Legal Authority Supporting the Decision to Deny

1. In accordance with Texas law, Occupations Code, §53.021(a)(1), the Board or department is authorized to disqualify a person from receiving a GDN if the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.

2. In accordance with Board rule, 43 TAC §215.88(i)(1), the Board or department is authorized to disqualify a person from receiving a license issued by the department if the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.
3. In accordance with Board rule, 43 TAC §215.88(j)(42), the Board determined that a criminal offense under United States Code, Title 18, Chapter 63, *Mail Fraud and Other Fraud Offenses*, which includes **Bank Fraud**, directly relates to the duties and responsibilities of the occupations licensed by the department.

4. In accordance with Board rule, 43 TAC §215.88(j)(42), the Board determined that a criminal offense under United States Code, Title 18, Chapter 63, *Mail Fraud and Other Fraud Offenses*, which includes **Receiving Mail in a Fictitious Name**, directly relates to the duties and responsibilities of the occupations licensed by the department.

5. In accordance with Board rule, 43 TAC §215.88(j)(42), the Board determined that a criminal offense under United States Code, Title 18, Chapter 63, *Mail Fraud and Other Fraud Offenses*, which includes **Aggravated Identity Theft**, directly relates to the duties and responsibilities of the occupations licensed by the department.

6. In accordance with Texas law, Occupations Code, §2301.651(a)(1), the Board is authorized to deny an application for a license if the applicant is un*fit* under standards described in board rules.

7. Board rule, 43 TAC §215.89(b)(2), provides that the Board or department is authorized to find a person un*fit* to perform the duties and discharge the responsibilities of a license holder and may, following notice and an opportunity for hearing, deny a person's license application if the person is convicted by any local, state, or federal authority of an offense listed in 43 TAC §215.88(j) or is convicted in any jurisdiction of an offense containing elements that are substantially similar to the elements in the offenses in §215.88(j). Accordingly, Board rule, 43 TAC §215.89, authorizes the Board or department to determine that a person convicted under 18 U.S.C. §1344 for **Bank Fraud** is un*fit* to perform the duties and discharge the responsibilities of a license holder.

8. Board rule, 43 TAC §215.89(b)(2), provides that the Board or department is authorized to find a person un*fit* to perform the duties and discharge the responsibilities of a license holder and may, following notice and an opportunity for hearing, deny a person's license application if the person is convicted by any local, state, or federal authority of an offense listed in 43 TAC §215.88(j) or is convicted in any jurisdiction of an offense containing elements that are substantially similar to the elements in the offenses in §215.88(j). Accordingly, Board rule, 43 TAC §215.89, authorizes the Board or department to determine that a person convicted under 18 U.S.C. §1342 for **Receiving Mail in a Fictitious Name** is un*fit* to perform the duties and discharge the responsibilities of a license holder.

9. Board rule, 43 TAC §215.89(b)(2), provides that the Board or department is authorized to find a person un*fit* to perform the duties and discharge the responsibilities of a license holder and may, following notice and an opportunity for hearing, deny a person's license application if the person is convicted by any local, state, or federal authority of an offense listed in 43 TAC §215.88(j) or is convicted in any jurisdiction of an offense containing elements that are substantially similar to the elements in the offenses in §215.88(j). Accordingly, Board rule, 43 TAC §215.89, authorizes the Board or department to determine that a person convicted under 18 U.S.C. §1028A for **Aggravated Identity Theft** is un*fit* to perform the duties and discharge the responsibilities of a license holder.
Department Decision to Deny Application

The department's decision to deny your application for issuance of a GDN is supported by applicable law and Board rules.

A. You have been convicted of one or more offenses the Board has determined by rule to directly relate to the duties and responsibilities of the licensed occupation for which you submitted an application, in accordance with law.

B. In accordance with law and rule, you are unfit to hold a GDN license and you are unfit to perform the duties and discharge the responsibilities of a license holder.

C. In determining your fitness to perform the duties and to discharge the responsibilities of the licensed occupation (i.e., your fitness to hold a license), the department considered:
   1. The requirements of Occupations Code, Chapter 53;
   2. The provisions of Occupations Code, §2301.651;
   3. Specific statutory licensing criteria and requirements;
   4. Any mitigating factor(s) presented;
   5. the nature and seriousness of the crime(s);
   6. the relationship of the crime to the purposes for requiring a license to engage in the occupation;
   7. the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which you were previously involved;
   8. the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation for which you applied;
   9. the extent and nature of your past criminal activity;
   10. your age when the crime was committed;
   11. the amount of time that has elapsed since your last criminal activity;
   12. any information provided that relates to your conduct and work activity before and after your criminal activity;
   13. any evidence provided that relates to your rehabilitation or rehabilitative effort while incarcerated or after release; and
   14. other evidence of your fitness, including letters of recommendation, if provided in accordance with Occupations Code, §53.023(b).

Applicant’s Request for Hearing

The department has made a decision to deny your application for a GDN license. However, if you wish to contest the department's decision, you may request that a hearing be conducted by an administrative law judge of the State Office of Administrative Hearings. The enclosed Hearing Request Form must be completed and returned to the TxDMV's Motor Vehicle Division at the following address:
Texas Department of Motor Vehicles
Motor Vehicle Division
Attn: Michelle Lingo
P.O. Box 26487
Austin, TX 78755

If a completed Hearing Request Form is received timely, TxDMV will schedule a hearing and send to you a notice of the date, time, and location of the hearing, so that you may make an appearance and defend your request for a license to the administrative law judge.

The hearing request form must be received at the above address no later than 26 days from the date of this letter, which is July 7, 2015. If the completed Hearing Request Form is not received within 26 days from the date of this letter, the denial of your application for a license will become final, in accordance with 43 TAC §215.500(f).

If you have any questions about this matter, please contact Michelle Lingo, Staff Attorney, Motor Vehicle Division at (512) 465-4277.

Sincerely,

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

Enclosure: Hearing Form

cc: Michael Cady, Attorney, Enforcement Division, TxDMV
    Michelle Lingo, Attorney, Motor Vehicle Division, TxDMV
REQUEST FOR HEARING
Denial of GDN/Independent Motor Vehicle Dealer License

Please Complete Entire Form

BUSINESS NAME:  FELA KOLEOSO d/b/a AMERICAN AUTO BUYERS CLUB

PHYSICAL ADDRESS:  
CITY:  __________________________ STATE:  __________________________ ZIP:  __________
MAILING ADDRESS:  
CITY:  __________________________ STATE:  __________________________ ZIP:  __________

TELEPHONE #:  __________________________ FAX #:  __________________________

EMAIL ADDRESS:  __________________________

I AM REQUESTING A HEARING ON THE DENIAL OF MY GENERAL DISTINGUISHING NUMBER/INDEPENDENT MOTOR VEHICLE DEALER LICENSE APPLICATION.

Signature:  __________________________ Date:  __________

Briefly describe the reasons for your protest of the denial of your General Distinguishing Number/Independent Motor Vehicle Dealer license application.

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Do you intend to retain counsel to represent you at a hearing?  ( ) YES  ( ) NO

This hearing request form must be received at the following address within 26 days of the date shown on the Notice of Department Decision to Deny Letter, no later than July 7, 2015:

TxDMV, Motor Vehicle Division
Attn:  Michelle Lingo
P.O. Box 26487
Austin, Texas  78755
REQUEST FOR HEARING
Denial of GDN/Independent Motor Vehicle Dealer License
Please Complete Entire Form

BUSINESS NAME: FELA KOLESOO d/b/a AMERICAN AUTO BUYERS CLUB

PHYSICAL ADDRESS: 525 N Sam Houston Pkwy E #360C
CITY: Houston STATE: TX ZIP: 77060

MAILING ADDRESS: 525 N Sam Houston Pkwy E #360C
CITY: Houston STATE: TX ZIP: 77060

TELEPHONE #: 832 343 0745 FAX #: 
EMAIL ADDRESS: wkndtx2012@gmail.com

I AM REQUESTING A HEARING ON THE DENIAL OF MY GENERAL DISTINGUISHING NUMBER/INDEPENDENT MOTOR VEHICLE DEALER LICENSE APPLICATION.

Signature: Kean Date: 06/30/15

Briefly describe the reasons for your protest of the denial of your General Distinguishing Number/Independent Motor Vehicle Dealer license application.

In response to the denial of my GDN application, I have described my reasons for protest in the attached letter. Thanks

Do you intend to retain counsel to represent you at a hearing? (X) YES ( ) NO

This hearing request form must be received at the following address within 26 days of the date shown on the Notice of Department Decision to Deny Letter, no later than July 7, 2015:

TxDMV, Motor Vehicle Division
Attn: Michelle Lingo
P.O. Box 26487
Austin, Texas 78755

RECEIVED
JUL 06 2015
TEXAS DEPARTMENT OF MOTOR VEHICLES
MOTOR VEHICLE DIVISION
I Fela Koleoso DBA American Auto Buyers Club am writing to appeal to the Texas Dept. of Motor Vehicles in response to being denied a GDN on the grounds that I have a felony conviction. I am not denying the convictions, however the occupations code statute 53.0211(b) (c)(d)(e); 53.021(c)(1);53.023,53.025 all indicate that even as convicted felon a license may be issued to an individual with a felony under the guidelines of the aforementioned statutes.
I fall under these statutes as I was convicted over 5 years now and have not engaged in any criminal activity since my release and also maintained steady record of employment. Furthermore the statutes also state that
[ sec. 53.023. ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER. (a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to factors listed in section 53.022:
(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 person’ fitness, including letters or recommendation]
I submit to you that I am aware of the mistakes that I made and I’m making effort to move with my life and support my family. Furthermore I took the dealer training seminar twice in order to be sure that when I’m licensed I will be able comply with the rules of the mvd.

[Signature]
Date 06/30/15
State Office of Administrative Hearings

Cathleen Parsley
Chief Administrative Law Judge

November 20, 2015

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

RE: Docket No. 608-15-4847.ENF; MVD Docket No. 15-1370 ENF; Texas Department of Motor Vehicles v. Fela F. Kolcaso D/B/A American Auto Buyers Club

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.

Sincerely,

[Signature]

Hunter Burkhalter
Administrative Law Judge

HB/mm
Enclosure
cc: Melinda Moreno, Texas Department of Motor Vehicles, 4000 Jackson Ave., Austin, Texas 78731 – VIA INTERAGENCY MAIL
Fela F. Kolcaso D/B/A American Auto Buyers Club, 525 N. Sam Houston Pkwy E, Ste. 360C, Houston, Texas 77060 – VIA REGULAR MAIL
Alice Carmona, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 – VIA INTERAGENCY MAIL (with 1 hearing CD)
SOAH DOCKET NO. 608-15-4847.ENF
MVD DOCKET NO. 15-1370 ENF

TEXAS DEPARTMENT OF MOTOR
VEHICLES, §
Petitioner

v. §
FELA F. KOLEoso D/B/A AMERICAN §
AUTO BUYERS CLUB, §
Respondent

BEFORE THE STATE OFFICE

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles (Department) seeks to deny the application of Fela F. Koleoso d/b/a American Auto Buyers Club for a General Distinguishing Number (GDN) to operate as an independent motor vehicle dealer. Staff contends that Mr. Koleoso is unfit for the GDN due to his criminal history. In this Proposal for Decision (PFD), the Administrative Law Judge (ALJ) finds that Mr. Koleoso’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 September 23, 2015, before ALJ Hunter Burkhalter in Austin, Texas. Staff was represented by Michael Cady, Enforcement Division attorney. Mr. Koleoso appeared and was represented by Jason Danowsky, attorney. The record closed and the hearing concluded that day.
II. DISCUSSION

A. Applicable Law

A “dealer” is as an independent motor vehicle dealer who holds a GDN issued by the Department pursuant to Chapter 503 of the Texas Transportation Code.\(^1\) The GDN constitutes a dealer’s license.\(^2\) A dealer is defined as a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location.\(^3\) A person may not legally engage in the business of a dealer unless he holds a GDN.\(^4\)

The Department “may deny” a GDN application if the applicant has been convicted of a criminal offense that directly relates to the duties and responsibilities of a dealer.\(^5\) Pursuant to Texas Occupations Code § 53.025, the Department has adopted a rule identifying which criminal convictions directly relate to the duties and responsibilities of a dealer and that may indicate a lack of fitness for licensure.\(^6\) The rule identifies the following crimes, among others, as directly relating to the duties and responsibilities of dealers: fraud (violations of Texas Penal Code chapter 32), and mail fraud and other fraud offenses (violations of U.S.C., Title 18, chapter 63).\(^7\)

If, as in this case, an applicant has been convicted of an offense that directly relates to the occupation at issue, the agency must determine whether the conviction affects the applicant’s fitness to perform the duties and discharge the responsibilities of the licensed occupation. Factors for an agency to consider in determining the fitness of a person who has been convicted of a crime are:

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\(^1\) Tex. Occ. Code § 2301.002(7); Tex. Transp. Code § 503.021 et seq.


\(^3\) Tex. Transp. Code § 503.001(4).


\(^7\) 43 Tex. Admin. Code § 215.88(j)(13) and (42).
(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 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.\(^8\)

The applicant also may also furnish proof that he has:

(1) maintained a record of steady employment;

(2) supported the applicant’s 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.\(^9\)

B. The Parties’ Evidence and Arguments

Mr. Koleoso is an immigrant from Nigeria. From 1994 through 2009, he held a GDN and worked as an independent motor vehicle dealer. He also held a Department-issued auto salvaging license. During this time, he sold used vehicles, primarily by exporting them to Nigeria. He sold cars both on a retail and wholesale basis.

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\(^8\) Tex. Occ. Code § 53.023(a). The applicant has the responsibility, to the extent possible, to obtain and provide the required recommendations of the prosecution, law enforcement, and correctional authorities. Tex. Occ. Code § 53.023(b).

\(^9\) Tex. Occ. Code § 53.023(c).
On February 23, 2015, Mr. Koleoso applied to the Department for a GDN, for use on a wholesale-only basis.\textsuperscript{10} It is this application that is at issue in this case. In the application, Mr. Koleoso admitted to two criminal convictions.\textsuperscript{11}

On March 26, 1992, in Case No. 91-226-Cr-J-12, in the United States District Court for the Middle District of Florida, Mr. Koleoso pled guilty to, and was convicted of, bank fraud (a violation of 18 U.S.C. § 1344), a Class B felony. In the underlying crime, Mr. Koleoso fraudulently obtained a credit card in the name of another person and used it to repeatedly withdraw money from ATMs.\textsuperscript{12} He was sentenced to prison for one year, followed by three years of supervised release, and fined $2,000.\textsuperscript{13} It appears that, for a long period of time, Mr. Koleoso failed to pay the fine, to the point that the government placed a lien on his property. The record in this case includes, however, a December 18, 2013, letter from a Financial Litigation Agent at the U.S. Department of Justice to Mr. Koleoso, stating "Your obligation to the government [stemming from Case No. 91-226-Cr-J-12] has been paid in full" and including a Release of Lien form.\textsuperscript{14}

On March 22, 2010, in Case No. 4:09CR00262-001, in the United States District Court for the Southern District of Texas, Mr. Koleoso pled guilty to, and was convicted of: (1) receiving mail in a fictitious name (a violation of 18 U.S.C. § 1342), a felony; and (2) aggravated identity theft (a violation of 18 U.S.C. § 1028A), a felony. In the underlying crime, federal agents conducted a search of Mr. Koleoso’s residence on April 22, 2009. Upon forcibly entering the home, the agents observed Mr. Koleoso on the phone with two credit cards (in different names) in his hands. Agents found hidden throughout the house more than 15 different credit cards, all in names other than Mr. Koleoso’s. They also found a large amount of additional new credit cards still in the envelopes from the issuing banks, and hundreds of credit reports, letters, credit card pre-approvals, bank statements, credit card statements, and

\textsuperscript{10} Dept. Ex. 1.
\textsuperscript{11} Dept. Ex. 1 at 5.
\textsuperscript{12} Dept. Ex. 10.
\textsuperscript{13} Dept. Ex. 1 at 8; Dept. Ex 2.
\textsuperscript{14} Dept. Ex. 9 at 2; Koleoso Ex. K1.
other mail in the names of individuals other than Mr. Koleoso. During the search, Mr. Koleoso identified an off-site storage unit which the agents subsequently searched and found another large cache of stolen mail, credit cards, and credit profiles. The investigation revealed that Mr. Koleoso had been stealing mail and then using the information discovered in the mail to apply for and use credit cards, debit cards, and checks using the identities of others. He was sentenced to prison for 54 months, followed by three years of supervised release, and assessed fines totaling $5,200.\textsuperscript{15} Mr. Koleoso was released from prison for this conviction in February 2012, after spending roughly 3 1/2 years in prison. He then spent several months in a halfway house, followed by several months of house arrest. His period of supervised release began in August 2012 and ended in February 2014. According to a letter from his probation officer, Mr. Koleoso was “compliant and cooperative” during his supervised release.\textsuperscript{16}

Mr. Koleoso testified that, if his application for a GDN is granted, he intends to buy and sell used cars at auctions, and export cars to Nigeria on a wholesale basis. Since applying for the GDN, Mr. Koleoso took, twice, a seminar class taught by the Department. He did not identify the subject matter of the class. He also obtained a commercial driver’s license (CDL) to enable him to transport the vehicles he buys at auction. In 2014, he leased office space for his planned business. (It is not clear whether the lease remains in effect.)

At the hearing, Mr. Koleoso denied his guilt for the crimes for which he was convicted in 2010. Somewhat contradictorily, he also contended that no one was harmed by his actions in those crimes. He pointed out that he was not ordered to pay restitution as a part of his 2010 conviction. However, he admitted that he used the credit cards that he fraudulently obtained to make purchases. He also admitted that if one can obtain a copy of a credit report on an individual, the report will have all the information necessary to apply for a credit card in that individual’s name.

\textsuperscript{15} Dept. Ex. 1 at 6-7, Dept. Exs. 12-15.
\textsuperscript{16} Dept. Ex. 9 at 3; Koleoso Ex. K2.
Since being released from prison, Ms. Koleoso has worked as a delivery driver for several companies in the Houston, Texas area. He provided pay stubs and tax forms demonstrating that he has earned a steady income in the years 2013, 2014, and 2015. He testified that he has had no legal troubles since his second release from prison. He also stated that he has never had any complaint filed with the Department against him as a car salesman.

Mr. Koleoso is married, with three children, aged 13 to 23. He testified that, other than during his incarceration, he has financially supported his family. At the hearing, Mr. Koleoso provided a letter of recommendation from Tola Oresusi, who Mr. Koleoso described as a long-time family friend. In the letter, Mr. Oresusi describes Mr. Koleoso as a person who has "learned from his mistake" and is focused, responsible, tenacious, and industrious. He also stated that Mr. Koleoso does "not shy away from business opportunities when the weak at heart think twice." 

Doroteo "Ted" Hernandez testified for the Department. He is the Assistant Chief Investigator for the Department. He explained that in order to operate as a dealer, a person must obtain a GDN. A GDN holder may operate on either a retail or wholesale basis. A wholesale dealer may purchase vehicles individually (i.e., on a retail basis) from members of the general public, but may only sell vehicles on a wholesale basis to another GDN holder who is licensed to sell on a retail basis.

Mr. Hernandez explained that when a wholesale dealer purchases a vehicle from an individual seller, he is legally obligated to obtain and keep on file a substantial amount of information about the seller, such as the seller’s name, address, date of birth, and government identification number (such as a driver’s license number, passport number, or social security number). If the seller still owes money on the car he is selling to the wholesale dealer, then the dealer must also obtain detailed information about that debt. For example, if a seller owes money to a bank, such that the bank is holding title to the vehicle, then the dealer must obtain the

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17 Dept. Ex. 9 at 4-6.
18 Koleoso Ex. K3.
bank name and the account number of the seller’s loan, and confirm with the bank the outstanding amount of the loan. According to Mr. Hernandez, most banks will not divulge such information without first being provided the borrower’s social security number. All of these bits of information—name, address, government identities, pre-existing loan account numbers, etc.—are, according to Mr. Hernandez, the types of information that are needed to fraudulently obtain a credit card in someone else’s name. In other words, according to Mr. Hernandez, in any transaction whereby a seller is selling a not-fully-paid-for vehicle to a wholesale dealer, the wholesale dealer is likely to learn everything he needs to know about the seller in order to fraudulently obtain a credit card in the seller’s name. For this reason, Mr. Hernandez expressed concern that if Mr. Koleoso obtained the GDN, it could help him commit future identity thefts.

Daniel Avitia also testified for the Department. He is the Director of the Motor Vehicle Division of the Department. He explained that the purchase and sale of vehicles often lends itself to fraud. He testified that Mr. Koleoso’s crimes are the second-most serious crimes he has ever seen with respect to an applicant for a GDN, and he stands by Staff’s decision to deny the application.

C. The ALJ’s Analysis

In 1992, Mr. Koleoso was convicted of Bank Fraud, a felony violation of 18 U.S.C. § 1344. In 2010, he was convicted of Receiving Mail in a Fictitious Name, a felony violation of 18 U.S.C. § 1342. Sections 1342 and 1344 are both found in Title 18, Chapter 63 of the U.S.C. As such, they both constitute offenses that have been found by the Department to be directly related to the duties and responsibilities of dealer.19 In 2010, Mr. Koleoso was also convicted of Aggravated Identity Theft, a felony violation of 18 U.S.C. § 1028A. The federal offense of Aggravated Identity Theft is not specifically identified by the Department as being directly related to the duties and responsibilities of dealer.20 However, the Texas state law crime of Fraudulent Use or Possession of Identifying Information, Texas Penal Code § 32.51, is identified

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by the Department as being directly related to the duties and responsibilities of dealer.21 Because Aggravated Identity Theft and Fraudulent Use or Possession of Identifying Information contain elements that are substantially similar, the Department may consider Mr. Koleoso’s conviction for Aggravated Identity Theft as being directly related to the duties and responsibilities of a dealer.22 In other words, each of Mr. Koleoso’s three convictions may constitute grounds for the Department to deny his application for licensure, pursuant to Texas Occupations Code § 53.021(a). However, as noted by the use of the word “may,” the Department has discretion as to whether Mr. Koleoso should be licensed, after considering the factors of the Texas Occupations Code §§ 53.022 and 53.023.

All three of Mr. Koleoso’s convictions were for serious felony crimes, requiring substantial jail time. The crimes are particularly troubling because they show a pattern of behavior over a span of decades in which Mr. Koleoso stole from others through the fraudulent use of identities. It is also troubling that, if Mr. Koleoso is granted a GDN, it could help him obtain confidential information from others in the future, thereby enabling further crimes. In other words, the ALJ is concerned that the issuance of a GDN might enhance Mr. Koleoso’s opportunities to engage in further criminal activity of the same type for which he is known. The 2010 convictions are troubling not only in their own right, but also because they occurred after Mr. Koleoso had been jailed and fined for a similar crime earlier in his life. Moreover, the scope of the crimes in 2010 appears to have been quite extensive. The evidence in the record indicates that, at the time of his arrest, Mr. Koleoso’s properties were awash with caches of fake credit cards, credit reports, credit profiles, stolen mail, and so on.

It is especially troubling that, at the hearing, Mr. Koleoso denied his guilt for the crimes for which he was convicted in 2010. His claim that no one was harmed by his actions is equally troubling. The ALJ notes that his 2010 convictions were part of a negotiated plea bargain agreement. Thus, the fact that he was not ordered to pay restitution is not dispositive of the question of whether there were victims to his crimes. Common sense dictates that every person

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whose identity Mr. Koleoso assumed, and every person whose mail he stole, was his victim. Moreover, Mr. Koleoso admitted that he used the credit cards that he fraudulently obtained to make purchases. Every time he did so, he inflicted harm upon one or more victims.

Mr. Koleoso was not a young man at the time of the 2010 convictions and he certainly should have known better. Mr. Koleoso has successfully completed his jail time, and appears to have met all other obligations to the criminal justice system. He has been out of prison since February 2012, but his period of supervised release ended only in February 2014.

It appears that, in the short time between his discharge from prison and the hearing, Mr. Koleoso has some made gains toward living a law-abiding life. He stressed that he has always supported his family. However, at least prior to 2010, some or all of that support must have come from his criminal operation. His letter of recommendation from Mr. Oresusi was of limited benefit to him because it focused on his work ethic and contained little information about his rehabilitation. Moreover, the statement in the letter that Mr. Koleoso does “not shy away from business opportunities when the weak at heart think twice” was ambiguous and could be read as an indictment, rather than an endorsement, of Mr. Koleoso’s ethics.

After weighing the evidence in this case, the ALJ concludes that Mr. Koleoso’s application should be denied.

III. FINDINGS OF FACT

1. On February 23, 2015, Fela F. Koleoso applied to Texas Department of Motor Vehicles (Department) for a General Distinguishing Number (GDN), so that he could operate as an independent wholesale motor vehicle dealer (dealer).

2. On March 26, 1992, in Case No. 91-226-Cr-J-12, in the United States District Court for the Middle District of Florida, Mr. Koleoso pled guilty to, and was convicted of, bank fraud (a violation of 18 U.S.C. § 1344), a Class B felony. In the underlying crime, Mr. Koleoso fraudulently obtained a credit card in the name of another person and used it to repeatedly withdraw money from ATMs.
3. For his 1992 conviction, Mr. Koleoso was sentenced to prison for one year, followed by three years of supervised release, and fined $2,000.

4. For many years, Mr. Koleoso failed to pay the fine, to the point that the government placed a lien on his property. He ultimately paid the fine and completed his obligations with respect to the 1992 conviction in late 2013.

5. On March 22, 2010, in Case No. 4:09CR00262-001, in the United States District Court for the Southern District of Texas, Mr. Koleoso pled guilty to, and was convicted of: (1) receiving mail in a fictitious name (a violation of 18 U.S.C. § 1342), a felony; and (2) aggravated identity theft (a violation of 18 U.S.C. § 1028A), a felony.

6. In the crimes underlying his 2010 convictions, federal agents conducted, on April 22, 2009, a search of Mr. Koleoso’s residence and a storage space rented by him and found dozens of credit cards, all in names other than Mr. Koleoso’s, and caches of hundreds of credit reports, letters, credit card pre-approvals, bank statements, credit card statements, and other mail in the names of individuals other than Mr. Koleoso. The investigation revealed that Mr. Koleoso had been stealing mail and then using the information discovered in the mail to apply for and use credit cards, debit cards, and checks using the identities of others.

7. For his 2010 convictions, Mr. Koleoso was sentenced to prison for 54 months, followed by three years of supervised release, and assessed fines totaling $5,200. Mr. Koleoso was released from prison for these convictions in February 2012, after spending roughly 3 1/2 years in prison. He then spent several months in a halfway house, followed by several months of house arrest. His period of supervised release began in August 2012 and ended in February 2014.

8. Mr. Koleoso is married with three children, aged 13 to 23.

9. Mr. Koleoso has financially supported his family, although at least some of that support was likely derived from his criminal activities.

10. Mr. Koleoso has been gainfully employed and avoided further legal troubles in the years 2013-15.

11. All three of Mr. Koleoso’s convictions were for serious felony crimes, requiring substantial jail time, and demonstrate a pattern of behavior over a span of decades in which Mr. Koleoso stole from others through the fraudulent use of identities.

12. Issuance of a GDN to Mr. Koleoso would enhance his opportunities to engage in further criminal activity of the same type for which he is known.

13. The Department should not grant Mr. Koleoso’s application for a GDN.
14. On June 11, 2014, staff (Staff) of the Department notified Mr. Koleoso that it was proposing to deny his application.

15. Mr. Koleoso timely requested a hearing.

16. On August 10, 2015, Staff mailed a notice of hearing to Mr. Koleoso by certified mail and first class mail.

17. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.

18. The hearing on the merits was held on September 23, 2015, before Administrative Law Judge Hunter Burkhalter in Austin, Texas. Staff was represented by Michael Cady, Enforcement Division attorney. Mr. Koleoso appeared and was represented by Jason Danowsky, attorney. The hearing concluded and the record closed the same day.

IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over dealers pursuant to Texas Occupations Code ch. 2301 and Tex. Transp. 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.


5. The Department may deny an application for a GDN if the applicant has been convicted of a crime which the Department has identified as directly relating to duties and responsibilities of a dealer. Tex. Occ. Code § 53.021(a)(1); 43 Tex. Admin. Code § 215.88(b)(1), (i)(1).

6. The three crimes for which Mr. Koleoso was convicted all directly relate to duties and responsibilities of a dealer. 43 Tex. Admin. Code §§ 215.88(j)(13), (42); 215.89(b)(2).
7. When determining whether to deny a GDN application because the applicant has been convicted of a crime which directly relates to duties and responsibilities of a dealer, the Department must consider a number of additional factors. Tex. Occ. Code §§ 53.022-.023.

8. In this case, the applicable factors weigh against Mr. Kolcoso and indicate that his application should be denied.

SIGNED November 20, 2015.

[Hunter Burkhalter]

HUNTER BURKHALTER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS
TEXAS DEPARTMENT OF MOTOR VEHICLES
MOTOR VEHICLE DIVISION

TEXAS DEPARTMENT OF MOTOR VEHICLES, Petitioner

v.

FELA KOLESO D/B/A/ AMERICAN AUTO BUYERS CLUB, Respondent

MVD DOCKET NO. 15-1370 ENF
SOAH DOCKET NO. 608-15-4847.ENF

FINAL ORDER

The referenced contested case matter is before the Board of the Texas Department of Motor Vehicles (TxDMV) in the form of a Proposal for Decision (PFD) from the State Office of Administrative Hearings (SOAH). The PFD proposes denial of the application for licensure submitted by Mr. Fela Koleoso to the Motor Vehicle Division (MVD) of the TxDMV.

The Board enters this final Order, having considered the evidence, arguments, and the Findings of Fact and Conclusions of Law presented in the ALJ’s November 20, 2015, Proposal for Decision (PFD).

The Board adopts the Findings of Fact 1-18 and Conclusions of Law 1-8, as presented in the ALJ’s November 20, 2015, PFD.

ACCORDINGLY, IT IS ORDERED:

1. That the Findings of Fact and Conclusions of Law presented in the ALJ’s November 20, 2015, PFD are hereby adopted;
2. the application for license submitted by Fela Koleoso is hereby denied; and
3. that remaining motions, if any, are hereby denied.

Date: __________________________

Laura Ryan, Chairman
Board of Texas Department of Motor Vehicles

ATTESTED:

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles
AGENCY # 608

SUMMARY OF PROPOSED AMENDMENTS/REPEALS/NEW SECTIONS TO THE RULES FOR CONSIDERATION BY THE TEXAS DEPARTMENT OF MOTOR VEHICLES BOARD

February 4, 2016

1. Adoption of Rules under Title 43, Texas Administrative Code:

   a. **Chapter 206, Management** - Subchapter E, Advisory Committees – Removes inapplicable language regarding reimbursement of expenses and language relating to the applicability of certain laws, policies, and ethical standards of conduct. New §206.94 and §206.95 set out the purpose and tasks of the agency’s existing advisory committees.

   b. **Chapter 210, Contract Management** - New §210.3, Contract Monitoring Program – Establishes a procedure to identify each contract that requires enhanced contract or performance monitoring. Required by SB 20 from the 84th Legislative Session.

   c. **Chapter 217, Vehicle Titles and Registration** - §217.3, Motor Vehicle Titles – The amendments address the consequences of Senate Bill 449, 84th Legislature, Regular Session, 2015, which added autocycles to those items that are considered to be motor vehicles. The amendments also clarify the titling requirements of certain house trailer-type vehicles and assembled vehicles.

2. Proposal of Rules under Title 43, Texas Administrative Code:

   d. **Chapter 215, Motor Vehicle Distribution** - Rule Review, Government Code, §2001.039 Repeals/Amendments, and new §215.160. Repeal of sections throughout this chapter that duplicate statute. Amendments are made throughout this chapter to clarify, replace terminology with defined terms, correct citations, revise existing terminology for consistency, include recent legislative changes and delete language contained in statute. Additional amendments as follows: Amend Subchapter A: add and define "GDN" and "new motor vehicle." Amend Subchapter B: establish that address in the department’s licensing file is "last known address" and authorize the MVD Division Director to issue final orders in contested cases that are resolved by summary judgment or summary disposition. Subchapter C: combine §215.86 with §215.83 and repeal §215.86. Amend Subchapter D: clarify that §215.105 applies only to purchases and transfers involving a physical relocation and clarify that §215.112 is limited only to motor home shows requiring department approval. Amend Subchapter E: add and define “VIN”; specify that a dealer may not commence business at any location until the department issues a license authorizing that location; replace existing text with graphics; clarify that different requirements apply to retail dealers and wholesale dealers and clarify that license holders are not required to maintain copies of motor vehicle titles submitted electronically. New §215.160 outlines the requirements for sale of a repaired, rebuilt or reconstructed vehicle. Amend Subchapter F: repeal §215.172 because the department proposes to delete all existing definitions under that section. Amend Subchapter G: rename title of §215.201 for consistency with other department rules. Amend Subchapter H: add and define new terms “new motor vehicle” and “savings claim or discount”; include internet and online advertising; provide that suggested retail price (or “SRP”) includes all costs and charges for the motor vehicle advertised as shown on the Monroney Sticker and clarify language regarding allowable use of trade-in amounts in advertisement. Amend Subchapter I: establish last known address for the purposes of notice; authorizes the MVD Division Director to issue cease and desist orders; and require the board delegate to decide motions for rehearing of an order issued by the board delegate. Amend Subchapter J: clarify that an administrative sanction may include a denial of an application for license; establish the last known address as being the address when a person applies for or renews his/her license and provide that the department will not refund a fee to a person that is subject to an unpaid civil penalty imposed by final order.
ADOP**TION PUBLICATION TO AMEND 43 TAC SECTION 206.93
AND NEW SECTIONS 206.94 AND 206.95,
RELATING TO ADVISORY COMMITTEES

Description

This order authorizes the adoption of amendments to Chapter 206, Management, Subchapter E, Advisory Committees, §206.93, Advisory Committee Operations and Procedures and adopts new §206.94, Household Goods Rules Advisory Committee and new §206.95, Motor Vehicle License Advisory Committee.

Background

The amendments are adopted to §206.93 to remove inapplicable language regarding reimbursement of expenses and language relating to the applicability of certain laws, policies, and ethical standards of conduct.

The adopted new §206.94 and §206.95, set out the purpose and tasks of the advisory committees.

Other Comments

There are no fiscal implications related to the amendments and new sections.

The proposal was published in the *Texas Register* on December 4, 2015. The comment period closed on January 4, 2016. The department received one comment from the Texas Independent Automobile Dealers Association in favor of new rule §206.95.

If the board adopts the amendments and the new sections during its February 4, 2016, open meeting, staff anticipates:

- publication of the adoption in the February 26, 2016, issue of the *Texas Register*;
- an effective date of the rule of March 3, 2016; and
- implementation by the department immediately thereafter.
December 21, 2015

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

Sent via email: rules@txdmv.gov

Re: Proposed new rule §206.95, Motor Vehicle License Advisory Committee.

Dear Mr. Duncan:

On behalf of the Texas Independent Automobile Dealers Association (TIADA) I want to thank you for the opportunity to submit the following comments with regard to the proposed new rule.

The association supports the proposed new rule. We have been very fortunate to work with Member Ingram and the other members of this committee on numerous occasions. The Motor Vehicle License Advisory Committee provided outstanding guidance to the Board regarding both the revamping of licensing procedures as well as the development of the fitness and felony rules. The committee serves an important function for the agency and as stakeholders, we are very grateful for the open and efficient method with which it conducts business.

TIADA appreciates the opportunity to comment on this proposed rule and looks forward to working with the agency in the future. Please feel free to contact me directly with any questions or concerns you may have.

Sincerely,

Danny Langfield  
TIADA Deputy Executive Director
BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING ADOPTION AMENDMENTS TO 43 TAC SECTION 206.93 AND NEW SECTIONS, 206.94 AND 206.95, RELATING TO ADVISORY COMMITTEES

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to adopt the amendments to Chapter 206, Management, Subchapter E, Advisory Committees, §206.93, Advisory Committee Operations and Procedures and adopts new §206.94, Household Goods Rules Advisory Committee, and new §206.95, Motor Vehicle License Advisory Committee.

The preamble, the amendments, and the new sections are attached to this resolution as Exhibits A-B and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached amendments and new sections are adopted.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

________________________________________
Laura Ryan, Chair
Board of the Texas Department of Motor Vehicles
SUBCHAPTER E. ADVISORY COMMITTEES


(a) Unless a member resigns from an advisory committee, the member continues to serve on the committee until the member is dismissed or replaced by the board, or until the committee concludes all business or is disbanded. The executive director may designate a division of the department to participate with, or to provide subject-matter expertise, guidance, or administrative support to the advisory committee.

(b) A summary of the business undertaken by each advisory committee shall be prepared and filed with the board or the board's designee.

(c) All summaries and other records of each advisory committee proceeding are records of the board that may be subject to disclosure under the provisions of Government Code, Chapter 552.

(d) The department may, if authorized by law and the executive director, reimburse advisory committee members for reasonable and necessary travel expenses. [Current rules and laws governing reimbursement of expenses for state employees shall govern reimbursement of expenses for advisory committee members.]

(e) Advisory committee members are subject to the same...
laws, policies, and ethical standards of conduct governing board members and employees of the department.]

(e) [+(f)] In developing department policies, the board shall consider the recommendations submitted by advisory committees.

(f) [+(g)] The designated division shall report to the board on actions, including any advice and recommendations, of an advisory committee prior to board action on a pertinent issue. The chair of the advisory committee or the chair's designee may appear before the board prior to board action on a posted agenda item to present the committee's advice and recommendations.

(g) [+(h)] Unless a different expiration date is established by the board for the advisory committee, each advisory committee is abolished on the fourth anniversary of its creation by the board.

§206.94. Household Goods Rules Advisory Committee (HGRAC).

(a) The HGRAC is created to make recommendations to the department regarding modernizing and streamlining the rules adopted under Transportation Code, §643.153(a) and (b).

(b) The HGRAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The HGRAC shall expire on August 14, 2019.
§206.95. Motor Vehicle License Advisory Committee (MVLAC).

(a) The MVLAC is created to review license requirements and procedures and make recommendations to the department regarding simplifying and modernizing the licensing process.

(b) The MVLAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The MVLAC shall expire on August 14, 2019.
Adoption Preamble

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 206, Management, Subchapter E, Advisory Committees, §206.93, Advisory Committee Operations and Procedures and adopts new §206.94, Household Goods Rules Advisory Committee, and new §206.95, Motor Vehicle License Advisory Committee, without changes to the proposed text as published in the December 4, 2015, issue of the Texas Register (40 TexReg 8746). The rules will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS AND NEW SECTIONS

Amendments are adopted to §206.93, Advisory Committee Operations and Procedures, to remove inapplicable language regarding reimbursement of expenses, and to remove language relating to the applicability of certain laws, policies and ethical standards of conduct. Adopted new §206.94, Household Goods Rules Advisory Committee, and adopted new §206.95, Motor Vehicle License Advisory Committee, are added to state the purpose and tasks of the committees, and to indicate respective end dates.

COMMENTS

The department received one written comment from Danny Langfield, Executive Director of the Texas Independent...
Automobile Dealers Association, in favor of §206.95.

STATUTORY AUTHORITY

The amendments and new sections are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department.

CROSS REFERENCE TO STATUTE

Government Code, Chapter 2110; and Transportation Code, §643.155 and §1001.031.
ADOPTION PUBLICATION OF NEW 43 TAC SECTION 210.3,
ENHANCED CONTRACT MONITORING PROGRAM

Description

This order authorizes the adoption of new section, Chapter 210, Contract Management, Subchapter A, Purchase Contracts, §210.3, Enhanced Contract Monitoring Program.

Background

New §210.3, is adopted to implement Senate Bill 20, 84th Legislature, Regular Session, 2015, by establishing a procedure to identify each contract that requires enhanced contract or performance monitoring.

Other Comments

There are no fiscal implications related to the new section.

The proposal was published in the Texas Register on December 4, 2015. The comment period closed on January 4, 2016. No comments were received.

If the board adopts the new section during its February 4, 2016, open meeting, staff anticipates:

- publication of the adoption in the February 26, 2016, issue of the Texas Register;
- an effective date of the rule of March 3, 2016; and
- implementation by the department immediately thereafter.
BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING ADOPTION
43 TAC SECTION 210.3,
ENHANCED CONTRACT MONITORING PROGRAM

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to adopt new Chapter 210, Contract Management, §210.3, Enhanced Contract Monitoring Program.

The preamble and the new section are attached to this resolution as Exhibits A-B and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached new section is adopted.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

_________________________________________
Laura Ryan, Chair
Board of the Texas Department of Motor Vehicles
Adoption Preamble

The Texas Department of Motor Vehicles (department) adopts Chapter 210, Contract Management, Subchapter A, Purchase Contracts, new §210.3, Enhanced Contract Monitoring Program, without changes to the proposed text as published in the December 4, 2015, issue of the Texas Register (40 TexReg 8705). The rules will not be republished.

EXPLANATION OF ADOPTED NEW SECTION

New §210.3, is adopted to implement Senate Bill 20, 84th Legislature, Regular Session, 2015, to include a procedure for the department to use in identifying contracts that require enhanced contract or performance monitoring. Senate Bill 20 requires each state agency to establish by rule a procedure to identify each contract that requires enhanced contract or performance monitoring, and to submit information on the contract to its governing body.

COMMENTS

No comments on the proposed new section were received.

STATUTORY AUTHORITY
The new section is adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE

§210.3. Enhanced Contract Monitoring Program.

(a) The department will apply risk assessment factors to agency contracts as defined in Government Code, §2261.253 to identify those contracts that require enhanced contract or performance monitoring. The risk assessment will consider the following factors:

(1) dollar amount of contract;
(2) total contract duration;
(3) vendor past performance;
(4) risk of fraud, abuse or waste;
(5) business process impact of failure or delay; and
(6) board or executive director's request for enhanced contract or performance monitoring.

(b) The department will notify the board of the results of the risk assessment and present information to the board resulting from the enhanced contract or performance monitoring.

(c) The chief financial officer or procurement manager shall immediately notify the department's governing body of any serious issue or risk that is identified under this section.
ADOP
ITION PUBLICATION TO AMEND 43 TAC SECTION 217.3,
MOTOR VEHICLE TITLES

Description

This order authorizes the adoption of amendments to Chapter 217, Vehicle Titles and Registration, §217.3, Motor Vehicle Titles.

Background

The adopted amendments to §217.3:

• Add autocycle to types of vehicles titled and registered as a motorcycle.
• Correct size of travel trailers for consistency with Texas Transportation Code, Chapter 501.
• Clarify language that excludes some house trailer-type vehicles from eligibility for Texas title under Transportation Code, Chapter 501.
• Clarify language regarding assembled vehicles, including:
  • assembled vehicles never titled in any jurisdiction;
  • creation of vehicle from different vehicle classes;
  • information to be submitted to establish vehicle identification number;
  • previously titled assembled vehicles;
  • method for establishing make and model year by which the vehicle is titled; and
  • remarks on titles for reconstructed or replica vehicles.
• Clarify language regarding certain vehicles not eligible for Texas title.

Other Comments

There are no fiscal implications related to the amendments.

The proposal was published in the Texas Register on December 4, 2015. The comment period closed on January 4, 2016.

If the board adopts the amendments during its February 4, 2016, open meeting, staff anticipates:
  • publication of the adoption in the February 26, 2016, issue of the Texas Register;
  • an effective date of the rule of March 3, 2016; and
  • implementation by the department immediately thereafter.
BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING ADOPTION
43 TAC SECTION 217.3, VEHICLE TITLES AND REGISTRATION

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to adopt the amendments to Chapter 217, Vehicle Titles and Registration, §217.3, Motor Vehicle Titles.

The preamble and the amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached amendments are adopted.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

_________________________________________
Laura Ryan, Chair
Board of the Texas Department of Motor Vehicles
Adoption Preamble

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 217, Vehicle Titles and Registration, Subchapter A, §217.3, Motor Vehicle Titles, without changes to the proposed text as published in the December 4, 2015, issue of the Texas Register (40 TexReg 8705). The rule will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

The amendments are adopted to address the consequences of Senate Bill 449, 84th Legislature, Regular Session, 2015, which added autocycles to those items that are considered to be motor vehicles. The amendments also clarify the titling requirements of certain house trailer-type vehicles and assembled vehicles. More specifically, the adopted amendments to §217.3 add autocycles to the definition of motorcycle for the purposes of obtaining a Texas title. Additionally, amendments are adopted regarding house trailer-type vehicles including changes to clarify size required to register, and clarify the eligibility of certain house trailer-type vehicles for Texas title under Transportation Code, Chapter 501.
Adopted amendments clarify language regarding assembled vehicles, including assembled vehicles that have never been issued title in any jurisdiction; creation of vehicles from different vehicle classes, and vehicles that are not eligible for Texas title; information required to be submitted to establish the vehicle's identification number, and adds language providing provisions for assembled vehicles which have previously been titled. Additional Adopted amendments provide methods for establishing the model year for assembled vehicles and noting remarks to be placed on titles for reconstructed vehicles or assembled replica vehicles, and clarifies assembled vehicles that are not eligible for Texas title.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the laws of this state; and more specifically, Transportation Code, §501.0041, which provides the department
may adopt rules to administer Chapter 501, Certificate of Title Act.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 501, 502, 548, and §504.501.
SUBCHAPTER A. MOTOR VEHICLE TITLES

§217.3. Motor Vehicle Titles.

Unless otherwise exempted by law or this chapter, the owner of any motor vehicle that is required to be registered in accordance with Transportation Code, Chapter 502, shall apply for a Texas title in accordance with Transportation Code, Chapter 501.

(1) Motorcycles, motor-driven cycles, autocycles, and mopeds.

   (A) The title requirements of a motorcycle, motor-driven cycle, autocycle, and moped are the same requirements prescribed for any motor vehicle.

   (B) A vehicle that meets the criteria for a moped and has been certified as a moped by the Department of Public Safety will be registered and titled as a moped. If the vehicle does not appear on the list of certified mopeds published by that agency, the vehicle will be treated as a motorcycle for title and registration purposes.

(2) Farm vehicles.

   (A) The term motor vehicle does not apply to implements of husbandry, which may not be titled.

   (B) Farm tractors owned by agencies exempt from registration fees in accordance with Transportation Code,
$502.453, are required to be titled and registered with "Exempt"
license plates issued in accordance with Transportation Code,

(C) Farm tractors used as road tractors to mow
rights of way or used to move commodities over the highway for
hire are required to be registered and titled.

(D) Farm semitrailers with a gross weight of more
than 4,000 pounds that are registered in accordance with
Transportation Code, §502.146, may be issued a Texas title.

(3) Neighborhood electric vehicles. The title
requirements of a neighborhood electric vehicle (NEV) are the
same requirements prescribed for any motor vehicle.

(4) Trailers, semitrailers, and house trailers. Owners
of trailers and semitrailers shall apply for and receive a Texas
title for any stand alone (full) trailer, including homemade or
shopmade full trailers, or any semitrailer having a gross weight
in excess of 4,000 pounds. Owners of trailers having a gross
weight of 4,000 pounds or less may apply for and receive a Texas
title. House trailer-type vehicles must meet the criteria
outlined in subparagraph (C) of this paragraph to be titled.

(A) The rated carrying capacity will not be less
than one-third of its empty weight.
(B) Mobile office trailers, mobile oil field laboratories, and mobile oil field bunkhouses are not designed as dwellings, but are classified as commercial semitrailers and must be registered and titled as commercial semitrailers if operated on the public streets and highways.

(C) House trailer-type vehicles and camper trailers must meet the following criteria in order to be titled.

(i) A house trailer-type vehicle designed for living quarters and that is eight body feet or more in width [or] forty body feet or more in length (not including the hitch), is classified as a manufactured home or mobile home and is not eligible for a Texas title under Transportation Code, Chapter 501. [titled under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, administered by the Texas Department of Housing and Community Affairs.]

(ii) A house trailer-type vehicle that is less than eight feet in width [or] less than forty feet in length is classified as a travel trailer and shall be registered and titled.

(iii) A camper trailer shall be titled as a house trailer and shall be registered with travel trailer license plates.
(iv) A recreational park model type trailer that is primarily designed as temporary living quarters for recreational, camping or seasonal use, is built on a single chassis, and is 400 square feet or less when measured at the largest horizontal projection when in the set up mode shall be titled as a house trailer and may be issued travel trailer license plates. If the park model type trailer exceeds one hundred two inches in width or forty feet in length, the title will include a brand to indicate that an oversize permit must be obtained to move the trailer on the public roads.

(5) Assembled vehicles.

(A) An assembled vehicle is a vehicle assembled from the three basic component parts (motor, frame, and body), except that a motorcycle must have a frame and motor, and a trailer or travel trailer will have no motor, and that is:

(i) assembled from new or used materials and parts by someone not regulated as a motor vehicle manufacturer;

(ii) altered or modified to the extent that it no longer reflects the original manufacturer's configuration;

or

(iii) assembled from a kit even if a Manufacturer's Certificate of Origin or Manufacturer's Statement of Origin is provided.
(B) A newly assembled vehicle, for which a title has never been issued in this jurisdiction or any other, may be titled if:

(i) it is assembled and completed with a body, motor, and frame, except that a motorcycle must have a frame and motor, and a trailer or travel trailer will have no motor;

(ii) it is not created from different vehicle classes, (as established by the Federal Highway Administration, except as provided by subparagraph (C) of this paragraph), [that component parts from 2-axle, 4-tire passenger cars and 2-axle, 4-tire pickups, panels and vans can be interchanged with one another,] that were never engineered or manufactured to be combined with one another;

(iii) it has all safety components required by federal law during the year of assembly, unless the vehicle qualifies and is registered as a custom vehicle or street rod in accordance with Transportation Code, §504.501;

(iv) it is not a vehicle described by paragraph (6) of this section; [designed as a dune buggy, designed by the manufacturer for on-track racing, or designed by the manufacturer as an off-road passenger vehicle;]
(v) for a vehicle assembled with a body, motor, and frame, the applicant provides proof, on a form prescribed by the department, of a safety inspection performed by an Automotive Service Excellence (ASE) technician with valid certification as a Certified Master Automobile and Light Truck Technician, certifying that the vehicle:

(I) is structurally stable;

(II) meets the necessary conditions to be operated safely on the roadway; and

(III) is equipped and operational with all equipment required by statute or rule as a condition of sale during the year the vehicle was assembled unless it is being inspected pursuant to Subchapter G of this chapter;

(vi) for a vehicle assembled with a body, motor, and frame, the applicant submits a copy of the Certified Master Automobile and Light Truck Technician's ASE certification; and

(vii) the applicant submits a Rebuilt Vehicle Statement; and

(viii) the applicant submits the following to establish the vehicle's vehicle identification number:

(I) an Application for Assigned or Reassigned Number, and Notice of Assigned Number or Installation
of Reassigned Vehicle Identification Number, on forms prescribed
by the department; or

(II) acceptable proof, as established
by the department, of a vehicle identification number assigned
by the manufacturer of the component part by which the vehicle
will be identified.

(C) Component parts from the following vehicle
classes may be interchanged with one another or used in the
creation of an assembled vehicle:

(i) 2-axle, 4-tire passenger cars;

(ii) 2-axle, 4 tire pickups, panels and
vans;

(iii) 6-tire dually pickups, of which the
rear tires are dual tires.

(D) The ASE inspection for a newly assembled
vehicle required under subparagraph (B) of this paragraph is in
addition to the inspection required by Transportation Code,
Chapter 548, except a vehicle that qualifies and is registered
as a custom vehicle or street rod in accordance with
Transportation Code, §504.501, is exempt from the inspection
required under Transportation Code, Chapter 548, for the
duration the vehicle is registered as such.
(E) An assembled vehicle which has previously been titled and/or registered in this or any other jurisdiction is subject to subparagraph (B)(i) - (iv) of this paragraph but is not subject to subparagraph (B)(v) - (viii); however, it is subject to the inspection required by Transportation Code, Chapter 548, except a vehicle that qualifies and is registered as a custom vehicle or street rod in accordance with Transportation Code, §504.501.

(F) An assembled vehicle will be titled using the year it was assembled as the model year and "ASSEMBLED" or "ASVE" as the make of the vehicle unless the body of the vehicle is established to the department's satisfaction to be an original body from a particular year and make. An assembled vehicle utilizing an original body may be titled by the year and the make of the original body but must reflect a "RECONSTRUCTED" remark. An assembled vehicle not utilizing an original body may obtain a title with a "REPLICA" remark featuring the year and make of the replica if the vehicle resembles a prior model year vehicle. This subparagraph applies regardless of how the vehicle's model year or make was previously identified in this or any other jurisdiction.
(6) Not Eligible for Title. The following are not eligible for a Texas title regardless of the vehicle's previous title and/or registration in this or any other jurisdiction:

(A) vehicles that are missing or are stripped of their motor, frame, or body, to the extent that it materially alters the manufacturer's original design or makes the vehicle unsafe for on-road operation as determined by the department;

(B) vehicles designed or determined by the department to be a dune buggy;

(C) vehicles designed or determined by the department to be for on-track racing, unless such vehicles meet Federal Motor Vehicle Safety Standards (FMVSS) for on-road use and are reported to the National Highway Traffic Safety Administration;

(D) vehicles designed or determined by the department to be for off-road use only, unless specifically defined as a "motor vehicle" in Transportation Code, Chapter 501); or

(E) vehicles assembled, built, constructed, rebuilt, or reconstructed in any manner with:

   (i) a body or frame from a vehicle which is a "nonrepairable motor vehicle" as that term is defined in Transportation Code, §501.091(9); or


(ii) a motor or engine from a vehicle which is flood damaged, water damaged, or any other term which may reasonably establish the vehicle from which the motor or engine was obtained is a loss due to a water related event.
PROPOSED PUBLICATION OF AMENDMENTS, NEW SECTION, AND REPEALS
43 TAC CHAPTER 215, MOTOR VEHICLE DISTRIBUTION

Description
This order proposes publication for comment of amendments, new section, and repeals in Chapter 215, Subchapters A-J.

Background
As a result of the rule review of Chapter 215, in accordance with Government Code, §2001.039, the department has determined that the reasons for initially adopting Subchapters A-J continue to exist, but that certain amendments and repeals are necessary.

The proposed amendments:
- correct punctuation, grammar, and capitalization
- replace terminology with defined terms
- delete definitions already defined by statute
- revise existing terminology for consistency with other department rules
- correct referenced citations
- delete language that duplicates statute
- subdivide and restructure various rules to improve formatting and readability
- rename certain subchapter and section titles for consistency and accuracy
- simplify and clarify language by removing statutory repetition
- implement legislative changes

Additional amendments to Subchapter A, General Provisions, add and define the terms "GDN" and "new motor vehicle"; repeal §215.3 because it duplicates statute; and repeal §§215.4-215.6, relating to opinions, because those sections contradict Government Code, §2001.003(6).

Additional amendments to Subchapter B, Adjudicative Practice and Procedure, clarify the purpose of the subchapter; add that prohibited communications will be reported to the general counsel; establish the last known address of a license holder for purposes of giving notice as the mailing address provided to the department when the license holder applies or renews its license; clarify that the costs of transcribing and preparing a record in a contested case hearing will be assessed to the party requesting the record; authorize the director of the division to issue final orders in contested cases that are resolved by summary judgment or summary disposition; and repeal §§215.25, 215.26, 215.28, 215.31, 215.33, 215.50-215.54, and 215.57 because they duplicate language contained in statute.

Additional amendments to Subchapter C, Licenses, Generally, replace "division" with "department"; incorporate, with amendments, the rule language under existing §215.86 with §215.83; and repeal §215.86 because it is no longer necessary.

Additional amendments to Subchapter D, Franchised Dealers, Manufacturers, Distributors, and Converters, clarify that the provisions of §215.105 apply only to purchases and transfers involving physical relocation, and that the provisions of §215.112 are limited only to motor home shows requiring department approval; replace "division" with "department"; and repeal §215.107 because it duplicates statute.
Additional amendments to Subchapter E, General Distinguishing Numbers, add and define the term "VIN"; specify that a dealer may not commence business at any location until the department issues a license authorizing that location; replace existing textual language with graphics; clarify that different requirements apply to retail dealers and wholesale motor vehicle dealers; clarify that license holders are not required to maintain copies of motor vehicle titles submitted electronically; rename §215.137 for consistency with statute; and repeal §§215.136, 215.142, and 215.143 because they are adequately addressed by statute.

An additional amendment to Subchapter F, Lessors and Lease Facilitators, repeals §215.172 because the department proposes to delete all existing definitions under that section.

An additional amendment to Subchapter G, Warranty Performance Obligations, renames the title of §215.201 for consistency with other department rules.

Additional amendments to Subchapter H, Advertising, replace "Board" with "department" and "code" with "Occupations Code, Chapter 2301"; add and define the terms "new motor vehicle" and "savings claim or discount"; include internet and online advertisements; provide that a suggested retail price (SRP) shall include all costs and charges for the motor vehicle advertised as shown on the Monroney sticker; incorporate the provisions under existing §215.262 relating to savings claims and discount offers with §215.250; add clarifying language regarding allowable use of trade-in amounts in advertisements; and repeal §215.262 because it is no longer necessary.

Additional amendments to Subchapter I, Practice and Procedure for Hearings Conducted by the State Office of Administrative Hearings, replace "matter" with "contested case" and "Board" with "department"; establish a license holder’s last known address for purposes of giving notice as the mailing address provided to the department when the license holder applies or renews its license; authorize the director of the division to issue a cease and desist order without notice and opportunity for hearing; clarify that a motion for rehearing and a reply to a motion for rehearing of an order issued by the board delegate must be decided by the board delegate; and repeal §§215.309, 215.312, and 215.313 because they duplicate language contained in statute.

Additional amendments to Subchapter J, Administrative Sanctions, clarify that an administrative sanction may include denial of an application for a license; establish the last known address of a license holder for purposes of giving notice as the mailing address provided to the department when the license holder applies or renews its license; and provide that the department will not refund a fee to a person that is subject to an unpaid civil penalty imposed by a final order.

The department also proposes new §215.160, Duty to Identify Motor Vehicles Offered for Sale as Rebuilt, which outlines the requirements for sale of a repaired, rebuilt or reconstructed vehicle.

Other Comments

There are no significant fiscal implications related to the proposed amendments, new section, and repeals.

If the proposal is approved by the board, staff anticipates publication of the proposed amendments, new section, and repeals in the Texas Register on or about February 26, 2016. Comments on the proposed amendments and repealed sections will be accepted until 5:00 p.m. on March 28, 2016.
BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED 43 TAC CHAPTER 215, AMENDMENTS TO SUBCHAPTERS A-J; NEW SECTION 215.160, AND REPEALED SECTIONS UNDER SUBCHAPTERS A-F, H, AND I, RELATING TO MOTOR VEHICLE DISTRIBUTION


The preamble, proposed amendments, new section, and repeals are attached to this resolution as Exhibits A-C, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached rule amendments, new section, and repeals are authorized for publication in the Texas Register for the purpose of receiving public comment.
The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Laura Ryan, Chair
Board of the Texas Department of Motor Vehicles

Recommended by:

David D. Duncan
General Counsel

Order Number: ___________________________  Date Passed: February 4, 2016
Texas Department of Motor Vehicles
Chapter 215, Motor Vehicle Distribution

Proposed Preamble

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 215, Motor Vehicle Distribution,

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Exhibit A
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5 Additionally, the department proposes new §215.160, Duty to 6 Identify Motor Vehicles Offered for Sale as Rebuilt, which 7 outlines the requirements for sale of a repaired, rebuilt or 8 reconstructed vehicle.

10 EXPLANATION OF PROPOSED AMENDMENTS, NEW SECTION, AND REPEALS

16 As a result of the review, the department has determined that 17 the reasons for initially adopting Subchapters A-J continue to 18 exist but that certain amendments and repeals, as detailed in 19 the following paragraphs, are necessary.

21 Amendments to Subchapter A, §215.1 and §215.2 are proposed to 22 replace terminology with defined terms, delete definitions
already defined by statute, revise existing terminology for
consistency with other department rules, correct referenced
citations, and to delete language that duplicates statute. The
title of §215.1 is amended for consistency with other department
rules. Additional amendments to §215.2 are proposed to add and
define the terms "GDN" and "new motor vehicle." The department
has determined that the reasons for initially adopting §§215.3-
215.6 no longer exist and that they should be repealed. Section
215.3 should be repealed because it duplicates language already
in statute. Sections 215.4-215.6, relating to opinions, should
be repealed because those sections are contrary to Government
Code, §2001.003(6) which defines a rule as "a state agency
statement of general applicability that (i) implements,
interprets, or prescribes law or policy, or (ii) describes the
procedure or practice requirements of a state agency."

Amendments to Subchapter B, §§215.21-215.24, 215.27, 215.29,
proposed to clarify the purpose of the subchapter, replace
terminology with defined terms, correct referenced citations,
revise existing terminology for consistency with other
department rules, and to delete language contained in statute.
An amendment to §215.22 is proposed to add that a violation of that section will be reported to the general counsel of the department in addition to the hearing officer. An additional amendment to §215.34 establishes the last known address of a license holder for purposes of giving notice as the mailing address provided to the department when the license holder applies or renews its license. The department further proposes to amend §215.37 to clarify that the costs of transcribing and preparing a record in a contested case hearing will be assessed to the party requesting the record. An additional amendment to §215.58 is proposed to authorize the director of the division to issue final orders in contested cases that are resolved by summary judgment or summary disposition. Additional amendments are proposed throughout Subchapter B to simplify and clarify language by removing any unnecessary statutory repetition. In addition, amendments are proposed to rename the titles of certain sections for consistency and accuracy. The department has further determined that §§215.25, 215.26, 215.28, 215.31, 215.33, 215.50–215.54, and 215.57 duplicate language already contained in statute and are no longer necessary. Therefore, the department proposes to repeal those sections.
Texas Department of Motor Vehicles  
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Amendments to Subchapter C, §§215.81-215.85 and 215.87-215.89 are proposed to replace terminology with defined terms, revise existing terminology for consistency with other department rules, correct referenced citations, and to delete language contained in statute. Additional amendments are proposed throughout Subchapter C to replace "division" with "department" for clarification and consistency with current department practice. An amendment is proposed to §215.83 to implement legislative changes regarding "active duty." In addition, the department proposes to amend §215.83 by including the procedures for processing license applications that are currently set out under existing §215.86 because those procedures are more appropriately located under §215.83. Additional amendments to §215.83 are proposed to subdivide the rule to improve formatting and readability. Because the department proposes to incorporate, with amendments, the rule language under §215.86 with §215.83, the department proposes to repeal §215.86. Additional amendments are proposed throughout Subchapter C to rename certain section titles for consistency and accuracy with the language contained in those rules.

Amendments to Subchapter D, §§215.101, 215.103-215.106 and

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Exhibit A
215.108–215.119 are proposed to delete language contained in statute, correct referenced citations, replace terminology with defined terms, revise existing terminology for consistency with other department rules and current department practice. An amendment to §215.105 clarifies that the provisions of that section apply only to purchases and transfers involving physical relocation. Amendments to §215.112 are proposed to clarify that the provisions of that section are limited only to motor home shows that require department approval. Additional amendments are proposed throughout Subchapter D to replace "division" with "department" for clarification and consistency with current department practice. The department also proposes amendments throughout Subchapter D to subdivide and restructure the rules for formatting and improved readability. The department has further determined that §215.107 duplicates language contained in statute and therefore, proposes to repeal that section.

Amendments to Subchapter E, §§215.131–215.133, 215.135, 215.137–215.141, and 215.144–215.159 are proposed to replace terminology with defined terms, delete definitions already defined by statute or to add clarifying language to existing definitions, revise existing terminology for consistency with other
department rules, correct referenced citations, and to delete language contained in statute. An additional amendment to §215.132 is proposed to add and define the term "VIN." An additional amendment to §215.133 includes the acceptance of concealed handgun license for identification purposes. An amendment to §215.135 specifies that a dealer may not commence business at any location until the department issues a license authorizing that location. Amendments were made to §215.137 to change the title to "Surety Bond" for consistency with statute and to clarify requirements. Additional amendments to §215.139 subdivide the rule for improved readability and replace existing textual language with graphics under amended subsections (c), (e), and (f)(1). Additional amendments are proposed throughout §215.140 to clarify that different requirements apply to retail dealers and wholesale motor vehicle dealers. An additional amendment to §215.144 is proposed to clarify that license holders are not required to maintain copies of motor vehicle titles submitted electronically. Additional amendments to §215.145 clarify the requirements for dealer status changes. An additional amendment was made to §215.147 to include acceptance of concealed handgun license for identification. Additional amendments are proposed to renumber the appendices under
$215.153, consistent with the proposed amendments renumbering that section. The department further proposes to repeal $$215.136, 215.142,$$ and 215.143 because those sections are adequately addressed by statute and therefore, are no longer necessary.

An amendment to Subchapter F is proposed to rename the title of that subchapter for consistency with statutorily defined terms. Additional amendments are proposed throughout $$215.171$$ and 215.173-215.181 to delete definitions already defined by statute or to add clarifying language to existing definitions, revise existing terminology for consistency with other department rules, correct referenced citations, and to delete language contained in statute. Additional amendments are proposed throughout Subchapter F to renumber and subdivide certain sections for improved readability. Because the department proposes to delete the definitions under $$215.172$$, the reasons for adopting that section no longer exist. Therefore, the department proposes to repeal $$215.172$$.

Amendments to Subchapter G, $$215.201-215.210$$ are proposed to replace terminology with defined terms, revise existing
terminology for consistency with other department rules, correct
the referenced citations, and to delete language that is already
contained in statute. In addition, the department proposes an
amendment to §215.201 to rename the title of that section for
consistency with other department rules.

Amendments to Subchapter H, §§215.241-215.261 and 215.263-
215.271 are proposed to revise existing terminology for
consistency with other department rules. Additional amendments
are proposed to replace terminology with defined terms and to
correct referenced citations. The department also proposes to
amend §215.241 to replace "Board" with "department" for
consistency with current department practice, and to replace
"code" with "Occupations Code, Chapter 2301" for clarification.

Amendments to §215.244 are proposed to add and define the terms
"limited rebate," "new motor vehicle" and "savings claim or
discount." Amendments are proposed to §215.248 to include
internet and online advertisements. An amendment to §215.249
provides that the suggested retail price (SRP) shall include all
costs and charges for the motor vehicle advertised as shown on
the Monroney sticker. Additional amendments to §215.250 are
proposed to incorporate the provisions under existing §215.262
relating to savings claims and discount offers with $215.250
because those provisions are more appropriately located under
that section. The department further proposes to amend graphics
under proposed subsections (h)-(j) of §215.250. Because the
department determined that the savings claims and discount offer
provisions under §215.262 are more appropriately located under
§215.250, the department proposes to repeal §215.262. In
addition, amendments to §215.253 are proposed to add additional
clarifying language regarding allowable use of trade-in amounts
in advertisements.

215.310, 215.311, and 215.314-215.317 are proposed to replace
terminology with defined terms and to correct referenced
citations for consistency. Additional amendments are proposed
throughout that subchapter to replace "matter" with "contested
case" and "Board" with "department." An amendment to §215.307 is
proposed to establish a license holder's last known address for
purposes of giving notice as the "mailing address provided to
the department when the license holder applies or renews its
license." An additional amendment to §215.314 is proposed to
authorize the director of the division to issue a cease and
desist order prior to the commencement of a proceeding by the
State Office of Administrative Hearings (SOAH). The cease and
desist order may be issued without notice and opportunity for
hearing if the provisions under Occupations Code, §2301.802(b)
are met. An Administrative Law Judge shall hold a hearing to
determine whether the interlocutory cease and desist order
should remain in effect during the pendency of the proceeding.
Additional amendments to §215.317 are proposed to clarify that a
motion for rehearing and a reply to a motion for rehearing of an
order issued by the board delegate must be decided by the board
delegate. The department has also determined that §§215.309,
215.312, and 215.313 duplicate language contained in statute and
that those sections should be repealed.

Amendments to Subchapter J, §§215.500–215.503 are proposed to
replace terminology with statutorily defined terms and to
correct referenced citations. Additional amendments to subdivide
certain sections of that subchapter are proposed for improved
formatting. An amendment to §215.500 is proposed to clarify that
an administrative sanction may include denial of an application
for a license. An additional amendment to that section
establishes the last known address of a license holder for
purposes of giving notice as the "mailing address provided to
the department when the license holder applies or renews its
license." An amendment to §215.503 provides that the department
will not refund a fee to a person that is subject to an unpaid
civil penalty imposed by a final order.

Additional nonsubstantive amendments are proposed throughout
Chapter 215 to correct punctuation, grammar, and capitalization.

The department also proposes new §215.160, Duty to Identify
Motor Vehicles Offered for Sale as Rebuilt, which outlines the
requirements for sale of a repaired, rebuilt or reconstructed
vehicle.

FISCAL NOTE
Linda M. Flores, Chief Financial Officer, has determined that
for each of the first five years the amendments, new section,
and repeals as proposed are in effect, there will be no fiscal
implications for state or local governments as a result of
enforcing or administering the amendments and repeals.

David D. Duncan, General Counsel, has certified that there will
be no significant impact on local economies or overall
employment as a result of enforcing or administering the
amendments, new section, and repeals.

PUBLIC BENEFIT AND COST

Mr. Duncan has also determined that for each year of the first
five years the amendments, new section, and repeals are in
effect, the public benefit anticipated as a result of enforcing
or administering the amendments, new section, and repeals will
be simplification, clarification and streamlining of the
agency's rules. There are no anticipated economic costs for
persons required to comply with the amendments, new section, and
repeals as proposed. There will be no adverse economic effect on
small businesses or micro-businesses.

TAKINGS IMPACT ASSESSMENT

The department has determined that this proposal affects no
private real property interests and that this proposal does not
restrict or limit an owner's right to property that would
otherwise exist in the absence of government action, and so does
not constitute a taking or require a takings impact assessment
SUBMITTAL OF COMMENTS

Written comments on the proposed amendments, new section, and repeals may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Building 1, Austin, Texas 78731 or by email to rules@txdmv.gov.

The deadline for receipt of comments is 5:00 p.m. on March 28, 2016.

STATUTORY AUTHORITY

The amendments, new section, and repeals are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation
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Code, §503.002 which authorizes the board to adopt rules to
administer Transportation Code, Chapter 503; and more
specifically, Transportation Code, §503.009, which authorizes
the board to adopt rules for procedures concerning contested
cases; Transportation Code, §503.061, which requires the board
to adopt rules regulating the issuance of dealer's license
plates; and Transportation Code, §503.0626 and §503.0631, which
require the board to adopt rules necessary to implement and
manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and
Transportation Code, Chapter 503.
PLACE HOLDER
CH. 215 RULES
SUBCHAPTER A. GENERAL PROVISIONS

$215.1. Purpose and Scope. Occupations Code, Chapter 2301 and Transportation Code, Chapters 503 and 1000 - 1005 require the Texas Department of Motor Vehicles to license and regulate motor vehicle dealers, manufacturers, distributors, converters, representatives, vehicle lessors and vehicle lease facilitators, in order to ensure a sound system of distributing and selling motor vehicles; provide for compliance with manufacturers' warranties; and to prevent fraud, unfair practices, discrimination, impositions, and other abuses of the people of this state in connection with the distribution and sale of motor vehicles. This chapter prescribes the policies and procedures for the regulation of the motor vehicle industry. [regulating motor vehicle dealers, manufacturers, distributors, converters, representatives, lessors and lease facilitators, by regulating licensing, warranty performance obligations, advertising, enforcement, and providing for adjudicative proceedings.]

$215.2. Definitions; Conformity with Statutory Requirements.

(a) The definitions contained in Occupations Code, Chapter 2301 and Transportation Code, Chapters 503 and 1000 - 1005
[1000 through 1005] govern this chapter. [All matters of
practice and procedure set forth in the Codes shall govern and
these rules shall be construed to conform with the Codes in
every relevant particular, it being the intent of these rules
only to supplement the Codes and to provide procedures to be
followed in instances not specifically governed by the Codes.]}
In the event of a conflict, the definition or procedure
referenced in Occupations Code, Chapter 2301 controls [shall
to control].
(b) The following words and terms, when used in this
chapter, shall have the following meanings, unless the context
clearly indicates otherwise.
(1) ALJ--An Administrative Law Judge of the State
Office of Administrative Hearings.
[(2) Appropriate department office--The office of the
department that is designated by notice or publication for
receipt of a specific filing.]
(2)[(3)] Board--The Board of the Texas Department of
Motor Vehicles, including any personnel to whom the board
[Board] delegates any duty assigned.
[(4) Chapter 503--Transportation Code, Chapter 503.]
[(5) Chapter 1000 through 1005--Transportation Code,
Chapter 1000 through 1005.]
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[(6) Code—Occupations Code, Chapter 2301.]

[(7) Codes—Occupations Code, Chapter 2301, and Transportation Code, Chapters 503 and 1000 through 1005.]

[(8) Department—The Texas Department of Motor Vehicles.]

(3)[(9)] Director—The director of the department [division] that regulates the distribution and sale of motor vehicles, including[, for purposes of this chapter, the definition of "director" also includes] any personnel to whom the director delegates any duty assigned under this chapter.

[(10) Division—The division that regulates the distribution and sale of motor vehicles.]

(4)[(11)] Executive director—The executive director of the Texas Department of Motor Vehicles.

(5)[(12)] Final order authority—The person(s) with authority under Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1000 - 1005; or board [the Codes or Board] rules to issue a final order.

(6) GDN—General distinguishing number.

(7)[(13)] Governmental agency—All other state and local governmental agencies and all agencies of the United States government, whether executive, legislative, or judicial.

[(14) Hearings examiner—A person employed by the

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1. department to preside over hearings under Occupations Code,

2. Chapter 2301.]

3. (8) Hearing officer—An ALJ, or a hearing examiner [under this chapter], or any other person designated,

4. employed, or appointed by the department, or employed or

5. appointed] to hold hearings, administer oaths, receive

6. pleadings and evidence, issue subpoenas to compel the attendance

7. of witnesses, compel the production of papers and documents,

8. issue interlocutory orders and temporary injunctions, make

9. findings of fact and conclusions of law, issue proposals for

10. decision, and recommend or issue final orders.

11. [(16) License purveyor—Any person who for a fee,

12. commission, or other valuable consideration, other than a

13. certified public accountant or a duly licensed attorney at law,

14. assists an applicant in the preparation of a license application

15. or represents an applicant during the review of the license

16. application.]

17. [(9) Motion for rehearing authority—The

18. person(s) with authority under Occupations Code, Chapter 2301;

19. Transportation Code, Chapters 503 and 1000 - 1005; or board [the

20. Codes or Board] rules to decide a motion for rehearing.

21. [(18) Party in interest—A party against whom a

22. binding determination cannot be had in a proceeding before the

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department without having been afforded notice and opportunity for hearing.] (10) New motor vehicle--As defined by Occupations Code, §2301.002(24). The term does not include a motor vehicle that is a salvage motor vehicle or a non-repairable motor vehicle. (11) [§(19)] S.O.A.H.--The State Office of Administrative Hearings.
SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE

§215.21. Purpose and Scope.[Objective.]

(a) The purpose[objective] of this subchapter [these rules]

is to ensure [fair, just, and impartial] adjudication of the

rights of parties in [all] matters within the jurisdiction of

Occupations Code, Chapter 2301 and Transportation Code, Chapters

503 and 1000 - 1005; and to ensure effective administration of

Occupations Code, Chapter 2301 and Transportation Code, Chapters

503 and 1000 - 1005 by the department, in accordance with

Government Code, Chapter 2001 and Occupations Code, §2301.001

and §2301.152. [the Codes, and to ensure fair, just, and

effective administration of the Codes in accordance with the

intent of the legislature as declared in Occupations Code,

§2301.001, and Occupations Code, §2301.152.]

(b) Practice and procedure in contested cases [filed on or-

after September 1, 2007, and] heard by SOAH are addressed in:

(1) 1 TAC Chapter 155;

(2)[(1)] Subchapter I of this chapter (relating to

Practice and Procedure for Hearings Conducted by the State

Office of Administrative Hearings); and

(3)[(2)] this subchapter, where not in conflict with

SOAH rules.

(c) This subchapter applies to contested cases filed under

Occupations Code, Chapter 2301 or Transportation Code, Chapter
503; and [shall apply] to complaints filed on or after January 1, 2014, under Occupations Code, §2301.204 or §§2301.601-2301.613, to the extent they do not conflict with state law, rule, or court order. [Subchapter M, §§2301.601-2301.613 (the Lemon Law) or Occupations Code, §2301.204 (warranty performance).]


(a) No party [in interest], attorney of record, or authorized representative in any contested case[such proceeding] shall make, [submit] directly or indirectly, any ex parte communication, in violation of Government Code, §2001.061, concerning the merits of the contested case[such proceeding] to the board or hearing officer[Board, or any department employee who is] assigned to render a decision or make findings of fact and conclusions of law in a contested case.

(b) Violations of this section shall be promptly reported to the hearing officer and the general counsel of the department. The general counsel shall ensure that a copy or summary of the ex parte communication is included with the record of the contested case and that a copy is forwarded to all parties or their authorized representatives. The general counsel may take any other appropriate action otherwise provided by law. [and a copy or summary thereof shall be filed with the record of]
such proceeding and a copy forwarded to all parties of record, and/or any other appropriate action otherwise provided by law.] 

$215.23. Appearances.

(a) General. Any party to a contested case may appear in person or by an authorized representative. An authorized representative may be required to show authority to represent a party. [proceeding before the Board may appear to represent, prosecute, or defend any rights or interests, either in person, by an attorney, or by any other authorized representative. Any individual may appear pro se, and any member of a partnership which is a party to a proceeding or any bona fide officer of a corporation or association may appear for the partnership, corporation, or association. An authorized full time employee may enter an appearance for his employer.]

[(b) Agreements of representation. The Board may require agreements between a party in interest and an attorney or other authorized representative concerning any pending proceeding to be in writing, signed by the party in interest, and filed as a part of the record of the proceeding.]

[(c) Lead counsel. The attorney or other authorized representative of a party in interest shall be considered that party's lead counsel in any proceeding and, if present, shall have control in the management of the cause pending before the

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(b) [Repealed] Intervention. Any public official or other person having an interest in a contested case[proceeding] may, upon request to the hearing officer,[Board,] be permitted to intervene [and present any relevant and proper evidence, data, or argument bearing upon the issues involved in the particular proceeding]. Any person desiring to intervene in a contested case[proceeding] may be required to disclose that person's[His] interest in the contested case[proceeding] before permission to appear will be granted.

[(c) Limitation on appearances. The Board may limit or exclude entirely an attempt by persons to appear in a proceeding when such appearance would be irrelevant or would unduly broaden the scope of the proceeding.]


(a) Petitions [for relief under the Codes or complaints filed alleging violations of the Codes other than those specifically provided for in these rules] shall be in writing and shall:[7—shall]

(1) state [clearly and concisely] the petitioner's grounds of interest in the subject matter, the facts relied upon, and the relief sought; and[7—and shall]

(2) cite the specific code provision(s) or other
appropriate law. [by appropriate reference the article of the
Codes or other law relied upon for relief and, where applicable,
the proceeding to which the petition refers.]
(b) The original of each petition, pleading, motion, brief,
or other document permitted or required to be filed with the
department in a contested case shall be signed by the party or
the party's authorized representative.
(c) All pleadings filed in a contested case shall be
printed or typed on 8-1/2 inch by 11 inch paper in no smaller
than 11 point type with margins of at least one inch at the top,
bottom, and each side. Each page shall be numbered at the
bottom. All text, except block quotations and footnotes, shall
be double spaced.

§215.27. Complaints.
(a) Complaints [All complaints] alleging violations of
Occupations Code, Chapter 2301 or Transportation Code, Chapters
503 and 1000 - 1005 [the Codes] shall be in writing, addressed
to the department, [appropriate department office] and signed by
the complainant. Complaint forms will be supplied [and-
assistance may be afforded] by the department for the purpose of
filing complaints.
(b) A complaint shall contain the name and address of the
complainant, the name and address of the party against whom the
complaint is made, and a brief statement of the facts forming
the basis of the complaint.

(c) If requested by the department, complaints shall be
under oath. Before[,...-- and before] initiating an investigation or
other proceeding to determine the merits of the complaint, the
department may require from the complainant [such] additional
information [as may be] necessary to evaluate the merits of the
complaint.


Any[In computing any] period of time prescribed or allowed by
this chapter, by order of the board, [Board] or by any
applicable statute shall be computed in accordance with
Government Code, §311.014.[,...-- the date of the act or event after
which the designated period of time begins to run is not to be
included; but the last day of the period so computed is to be
included unless it be a Saturday, Sunday, or legal holiday in
which event the period runs until the end of the next day which
is not a Saturday, Sunday, or legal holiday.]


(a) Each [Every] document required or permitted to be filed
with the department under[related to] this chapter shall be
delivered:

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(1) [filed] in person;

(2) by first-class mail to the address of the appropriate department [office] or

(3) by electronic document transfer to [at] a destination designated by the department. [for receipt of these documents.] (b) Except as provided in subsection (c) of this section, delivery by mail shall be complete upon deposit of the document, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

(b) [(c)] Except as provided in subsection (c) of this section, delivery by mail as specified in subsection (b) of this section shall be timely if the document is deposited on or before the specified date and received by the appropriate department office not later than the fifth business day after the date of deposit.] Delivery by electronic document transfer is considered [shall be] timely if the document is received by 5:00 p.m. Central Standard Time (CST). [5 p.m. (Central Standard Time).] Delivery by electronic document transfer after 5:00 p.m. CST [5 p.m. (Central Standard Time)] shall be deemed received on the following day.

(c) [(d)] [Such document may be delivered by a party to a matter, an attorney of record, or by any other person competent to testify.] A certificate by the party or party's authorized

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representative\[an\] attorney of record or the affidavit of any
person competent to testify,\] showing timely delivery of a
document in a manner described in this section shall be prima
facie evidence [of the fact] of timely delivery. Nothing[;
although nothing] herein shall preclude the department or any
party from offering proof that the [subject] document was not
timely delivered.

\(\text{(d)[(e)] To be timely filed, a[the]}\) document must be
received by the department within [in the appropriate department
office by] the time specified by statute, rule, or department
order. A document [filing] received after the specified time,
notwithstanding the date of mailing or other means of delivery,
shall be deemed [untimely, [not timely filed.]]


(a) Except as provided by subsection (b) of this section,
when [When by these rules or by a notice given thereunder or by
order of the Board or the hearing officer having jurisdiction,
as the case may be,] an act is required or allowed to be done at
or within a specified time in accordance with this chapter, the
board [, except as provided in subsection (b) of this section,
the Board] or the hearing officer, with good cause shown, may:
[for cause shown may, at any time in the Board's or the hearing
officer's discretion.]

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(1) [with or without motion or notice,] order the specific period extended if the extension is requested[period enlarged if application therefore is made] before the expiration of the period previously specified; [originally prescribed or as extended by a previous order,] or

(2) [upon motion] permit the act to be done after the expiration of the specified period, provided [where] good cause is shown for the failure to act.

(b) Notwithstanding [anything contained in] subsection (a) of this section, the board or [neither the Board nor a] hearing officer may not extend [enlarge] the time for filing a document when a [where, by] statute or rule specifies the time period by which a document [the document, to be timely filed,] must be received by the department [in the appropriate department office] by a specified time. The requirements of such statute or rule shall govern the filing of that document. Any such document received after the specified time, notwithstanding the date of mailing or other means of delivery, shall be deemed not timely filed.

§215.34. Notice of Hearing in Contested Cases. [Adjudicative Proceedings.]

(a) In a contested case, each party is entitled to a hearing, in accordance with Government Code, §2001.051.
[(a) In any adjudicative proceeding under the Code, the notice of hearing shall state:] 

[(1) the name of the party or parties in interest;] 

[(2) the time and place of the hearing;] 

[(3) the docket number assigned to the hearing;] 

[(4) any special rules deemed appropriate for such hearing; and] 

[(5) a clear and concise factual statement sufficient to identify with reasonable definiteness the matters at issue. 

This can be satisfied by attaching and incorporating by reference the complaint or amended complaint.] 

(b) A notice of hearing in a contested case shall comply with the requirements of Government Code, §2001.052(a) and [Notice of hearing] shall be served upon the parties [in interest either] in person or by certified mail, return receipt requested to the last known address of the parties or their authorized representatives, in accordance with Occupations Code, §2301.705. [addressed to the parties in interest or their agents for service of process.] 

(c) The last known address of a license holder is the mailing address provided to the department when the license holder applies for or renews its license. 

[(c) Notice of hearing shall be presumed to have been received by a person if notice of the hearing was mailed by]
certified mail, return receipt requested, to the last known address of any person known to have legal rights, duties, or privileges that could be determined at the hearing.)

(d) A notice of hearing in a contested case may be amended in accordance with Government Code, §2001.052(b).

[(d) Notice of hearing may be amended at the hearing or at any time prior thereto]

§215.35. Reply.

(a) Within 20 days after service of a notice of hearing in a contested case[7] or within 10 days after service of an amended notice of hearing, a [responding] party may file a reply in which the matters at issue are specifically admitted, denied, or otherwise explained.

(b) [51] A reply shall include[form and filing of replies.

All replies shall include a reference to the docket number of the contested case[hearing] and shall be filed[sworn to] by the party or party’s authorized representative. The original [responding party or the attorney of record. The original of the] reply shall be filed with the department and a[appropriate department office, and one] copy shall be served on any[upon] other parties to the contested case. [proceeding, if any.]

(c) [(2)] A party may file an amended reply prior to the contested case hearing. In any contested case when [Amendment, A
responding party may amend his reply at any time prior to the hearing, and in any case where the notice of hearing has been amended at the contested case hearing, a party, at the discretion of the hearing officer, shall have an opportunity to file an amended reply.

(d) [Extension of time.] Upon the motion of a responding party, with good cause shown, the department may extend the time to file a reply. [within which the reply may be filed.]

(e) [Default.] All allegations shall be deemed admitted by any party not appearing at the contested case hearing on the merits.

§215.36. Hearings To Be Public.

Hearings in contested cases shall be open to the public.

§215.37. Recording and Transcriptions of Hearing Cost.

(a) Except as provided by Subchapter G of this chapter (relating to Warranty Performance Obligations), hearings in contested cases will be transcribed by a court reporter or recorded by the hearing officer. [at the discretion of the hearing officer. Any request regarding recording or]
transcription must be made to the hearing officer at least two
days prior to the hearing.]

(b) In a contested case in which
the hearing is transcribed by a court reporter, the costs of
transcribing the hearing and for the preparation of an original
transcript of the record for the department shall be assessed to
the requesting party in the contested case equally among all-
parties to the proceeding, unless otherwise directed.

(c) Copies of recordings or transcriptions of a contested
case hearing will be provided to any party upon written request
and upon payment for the cost of the recordings or
transcriptions.

(d) In the event a final decision in a contested case is
appealed and the department is required to transmit to the court
the original or a certified copy of the record, or any part
thereof, the appealing party shall, unless waived by the
department, pay the costs of preparation of the record that is
required to be transmitted to the court.

§215.38. Consolidation of Proceedings.[Joint Record.]

No contested case proceedings including two or more complaints or petitions shall
be jointly heard on a joint record without the consent of all
parties, [in interest] unless the hearing officer finds [shall
find, prior to the consolidation of the proceeding,] that
justice and efficiency are better served by the consolidation.

After [Subsequent to] the issuance of a notice of hearing in a contested case, and in accordance with the deadlines prescribed by [as provided in] §215.35 of this title [subchapter] (relating to Reply), a party may waive [responding party may waive such] hearing and consent to the entry of an agreed order. Agreed orders proposed by the parties remain subject to the approval of the final order authority.

After a contested case has been called on the date assigned for hearing [in a proceeding] pursuant to notice, a continuance of the contested case hearing [postponement of the case] will be granted only upon a showing of good cause. A motion for continuance of a contested case [in exceptional circumstances]. All motions for postponement of a] hearing shall be filed and served on all parties at least five days before the hearing date, except when good cause is shown to consider a motion for continuance filed after the deadline. [sufficiently in advance of the date of hearing to permit notice to all parties if postponement should be granted.]
§215.41. Presiding Officials.

(a) Hearing officer. The term "hearing officer" as used in this section includes the board when presiding over a hearing.

(b) Powers and duties. A hearing officer shall conduct fair hearings and shall take all necessary action to administer the disposition of contested cases. A hearing officer's powers include, but are not limited to the authority to: [proceedings and to maintain order. Hearing officers shall have all powers necessary to these ends, including the authority to]

(1) administer oaths; [to]

(2) examine witnesses; [to]

(3) rule upon the admissibility of evidence; [to]

(4) rule upon motions; and [to]

(5) regulate the course of the contested case hearing and the conduct of the parties and their authorized representatives. [counsel]

(c) Recusal. [Disqualification]
(1) If the hearing officer determines that he or she should be recused from a particular contested case hearing, the hearing officer shall withdraw from the contested case proceeding by giving notice on the record and by notifying the chief hearing officer. [appropriate department office of the withdrawal.]

(2) A [Whenever a party deems the hearing officer to be disqualified to preside in a particular hearing, the] party may file a motion to recuse [disqualify and remove] the hearing officer. The motion to recuse [disqualify and remove] shall be supported by an affidavit setting forth the alleged grounds for disqualification. A copy of the motion shall be served on the hearing officer who shall have 10 days [within which] to reply, and a copy shall be served on all parties or their authorized representatives.

(3) If the hearing officer contests the alleged grounds for disqualification, the chief hearing officer [department] shall promptly determine the validity of the grounds alleged and render a decision. [Such decision being determinative of the issue.]

(d) [§ 3] Substitution of hearing officer. If the hearing officer is disqualified, dies, becomes disabled, or withdraws during any contested case proceeding, the chief hearing officer [department] may appoint another hearing officer to
preside over the remainder of the contested case proceeding. [who may perform any function remaining to be performed without the necessity of repeating any proceedings in the case.]

§215.42. Conduct of Hearing.

Each party in a contested case [interest] shall have the right to [in an adjudicative hearing to due] notice, cross examination, presentation of evidence, objection, motion, argument, and all other rights essential to a fair contested case hearing. Except as provided by this chapter [Procedures in such hearings, except where otherwise provided by these rules] or in the notice of hearing, [shall be insofar as reasonably practicable in accordance with] the Texas Rules of Civil Procedure, as applied to non-jury civil cases, shall be applicable to hearings in contested cases, as far as reasonably practical. [Applicable in district and county courts in civil actions heard before the court without a jury.]

§215.43. Conduct and Decorum.

(a) All parties, witnesses, counsel, and authorized representatives shall conduct themselves in all contested case hearings with proper dignity, courtesy, and respect for the board, the hearing officer, and other parties. [Every party, witness, attorney, or other representative shall comport himself]
in all proceedings with proper dignity, courtesy, and respect
for the Board, the hearing officer, and all other parties.
Disorderly conduct will not be tolerated. Attorneys and other
representatives of parties shall observe and practice the
standards of ethical behavior prescribed for attorneys at law by
the Texas Disciplinary Rules of Professional Conduct and the
Texas Lawyer's Creed. No party to a pending case, and no
representative or witness of such a party, shall discuss the
merits of such case with the hearing officer outside of the
presence of all other parties, or their representatives.]
(b) Upon violation of this section, any party, witness,
attorney, or authorized[ether] representative may be:
(1) excluded from the contested case[any] hearing for
such period and upon such conditions as are just; or [may be]
(2) subject to [such] other just, reasonable, and
lawful disciplinary action as the board, hearing officer, or
department may order.[prescribe.]
§215.44. Evidence.
(a) General. The Texas Rules of Evidence shall apply in all
contested cases, in accordance with Government Code, Chapter
2001.[be applied in all adjudicative hearings to the end that
needful and proper evidence shall be conveniently,
inexpensively, and speedily adduced while preserving the rights—
of the parties to the proceeding.

[(b) Admissibility. All relevant, material, and reliable evidence shall be admitted. Irrelevant, immaterial, unreliable, and unduly repetitious or cumulative evidence shall be excluded. Immaterial or irrelevant parts of an otherwise admissible document shall be segregated and excluded so far as practicable.]

[(c) Official records. An official document or record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by the officer's deputy, and accompanied by a certificate to such effect. This section does not prevent and is not intended to prevent proof of any official record, the absence thereof or official notice thereof by any method authorized by any applicable statute or any rules of evidence in district and county courts.]

[(d) Entries in the regular course of business. Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, will be admissible as evidence thereof if it appears that it was made in the regular course of business. This section does not prevent and is not intended to prevent proof of any business writing or record by...}
any method authorized by any applicable statute or any rules of
evidence in district and county courts.]

(b) [S-] Documents in department files. The hearing officer
may take judicial notice of documents or information
in the department's files, in accordance with licensing files.
may be officially noticed and may be admitted and considered by
the hearing officer, as described in] Government Code, Chapter

[(f) Abstracts of documents. When documents are numerous,
the hearing officer may refuse to receive in evidence more than
a limited number of said documents which are typical and
representative, but may require the abstraction of the relevant
information from the documents and the presentation of the
abstract in the form of an exhibit; provided, however, that
before admitting such abstract the hearing officer shall afford
all parties in interest the right to examine the documents from
which the abstract was made.]

(c) [S-] Exhibits. Exhibits shall be limited to facts with
respect to the relevant and material issues involved in a
particular contested case. Documentary exhibits shall not unduly encumber the
record. Where practical, the pages of the proceeding shall be numbered, and the sheets of each exhibit shall not be more than 8-1/2 inches by 11 inches in size, and shall be numbered and labeled.
The original and one copy of each exhibit offered shall be tendered to the reporter or hearing officer for identification, and a copy shall be furnished to each party [in interest]. In the event an offered exhibit has been excluded after objection and [identified, objected to, and excluded, the hearing officer shall determine whether] the party offering the exhibit withdraws the offer, the hearing officer shall [and if so,] return the exhibit. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification and be included in the record only for the purpose of preserving the exception together with the hearing officer's ruling.

$215.45. Stipulation of Evidence.
Evidence may be stipulated by agreement of all parties [in interest].

$215.46. Objections and Exceptions.
Formal exceptions [exception] to the ruling of the hearing officer is not necessary. [It is sufficient that the party in interest at the time the ruling is made, or sought, make known to the hearing officer the action desired.]

$215.47. Motions.
(a) Each [Every] motion in a contested case [relating to a
pending proceeding shall], unless made during a contested case hearing, shall be in writing and shall state: [hearing, be written, and shall set forth]

(1) the relief sought; and

(2) the specific reasons and grounds.

(b) If the motion is based upon matters which do not appear of record, the motion[47] must be supported by affidavit.

(c) Any motion not made during a contested case hearing shall be filed with the hearing officer and a copy shall be served on all parties or their authorized representatives.


The hearing officer may direct that the parties file briefs[Briefs may be filed] in any pending contested case.[adjudicative proceeding at such time as may be specified by the hearing officer.]
sending a copy properly addressed to each party by: [first-class
United States mail, postage prepaid, by actual delivery, or by
electronic document transfer to a facsimile number, e-mail
address, or website designated for the receipt of those filings.
A certificate of such fact shall accompany the document.]

(1) first-class mail;
(2) hand delivery;
(3) facsimile; or
(4) email.

(b) A copy of each document may be served upon the
department by electronic document transfer at a destination
designated by the department.

(c) A certificate of service shall accompany each document.


(a) The board[Board] has final order authority in a
contested case initiated by a complaint filed before January 1,
2014, under Occupations Code, §2301.204 or §§2301.601 - 2301.613
[initiated by a complaint filed before January 1, 2014].

(b) The hearings examiner has final order authority in a
contested case filed on or after January 1, 2014, under
Occupations Code, §2301.204 or §§2301.601 - 2301.613[—filed on
or after January 1, 2014].

(c) Except as provided by subsections (a) and (b) of this
section, the board has final order authority in a contested case filed under Occupations Code, Chapter 2301 or under Transportation Code, Chapter 503.

(d) An order shall be deemed final and binding on all parties and all administrative remedies are deemed to be exhausted as of the effective date, unless a motion for rehearing is filed with the appropriate authority as provided by law.

§215.56. Submission of Amicus Briefs.

(a) Any interested person may submit an amicus brief for consideration in a contested case and should file the brief no later than the deadline for filing exceptions.

(b) A party may submit one written response to the amicus brief no later than the deadline for filing replies to exceptions.

(c) Any amicus brief, or response to that brief, not filed within the deadlines prescribed by subsection (b) of this section will not be considered, unless good cause is shown why the deadline should be waived or extended.


(a) In accordance with Occupations Code,
§2301.154(c), except as provided by subsection (b) of this section, the director [of the department division that regulates the distribution and sale of motor vehicles] is authorized to issue, where there has not been a decision on the merits, a final order in a contested case, including, but not limited to a contested case resolved: [final orders in cases without a decision on the merits resolved in the following ways:

(1) by settlement;
(2) by agreed order;
(3) by withdrawal of the complaint;
(4) by withdrawal of a protest;
(5) by dismissal for want of prosecution;
(6) by dismissal for want of jurisdiction;
(7) by summary judgment or summary disposition;
(8) by default judgment; or
(9) when a party waives opportunity for a contested case hearing.

(b) In accordance with [Pursuant to] Occupations Code, §2301.154(c), the director [of the department division that regulates the distribution and sale of motor vehicles] is authorized to issue a final order in a contested case filed prior to January 1, 2014, [final orders in cases,] under Occupations Code, §2301.204 or §§2301.601 - 2301.613[§§ filed prior to January 1, 2014].

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(c) In a contested case in which the board has delegated final order authority under subsections (a) or (b) of this section, a motion for rehearing shall be filed with and decided by the final order authority delegate.
SUBCHAPTER C. LICENSES, GENERALLY

§215.81. Purpose and Scope.[Objective]. This subchapter implements [The objective of this subchapter is to implement the intent of the legislature as declared in] Occupations Code, Chapter 2301[7] and Transportation Code, Chapter 503, regarding licenses required [by prescribing rules to regulate businesses requiring licenses] under those chapters.

§215.82. Duplicate Licenses and Plates.[Administration of Licensing Fees.]

(a) A request for a duplicate license must:

(1) be made on a department-approved form; [division-approved form,]

(2) state [stating] the reason for the duplicate license; and

(3) be accompanied by the required duplicate license fee.

(b) A license holder may receive [The licensee may request] one duplicate license at no charge if the license holder:

(1) did not receive the original license; and

(2) makes the request within 45 days of the date [time] the license was mailed to the license holder. [Licensee]
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Chapter 215, Motor Vehicle Distribution

[(b) A licensee that fails to renew the license in a timely manner because the person was on active duty in the United States armed forces and serving outside Texas shall be exempt from any increased fee or penalty imposed by the department for failing to renew the license in a timely manner.]

(c) A license holder may receive a replacement metal dealer's license plate, if applicable, at no charge if the license holder:

(1) did not receive the metal dealer's license plate;

and

(2) makes the request within 45 days of the date the metal dealer's license plate was mailed to the license holder and on a department approved form.

§215.83. License Applications, Amendments, or Renewals. [Renewal of Licenses.]

(a) An application for a new license, license amendment, or license renewal filed with the department must be:

(1) on a form approved by the department;

(2) completed by the applicant, license holder, or authorized representative who is an employee, a licensed attorney, or a certified public accountant;

(3) accompanied by the required fee, paid by check,
credit card, or by electronic funds transfer, drawn from an
account held by the applicant or license holder, or drawn from a
trust account of the applicant's attorney or certified public
accountant; and
(4) accompanied by proof of a surety bond, if
required.
(b) An authorized representative of the applicant or
license holder who files an application with the department may
be required to provide written proof of authority to act on
behalf of the applicant or license holder.
(c) The department will not provide information regarding
the status of an application, application deficiencies, or new
license numbers to a person other than a person listed in
subsection (a)(2) of this section, unless that person files a
written request under Government Code, Chapter 552.
(d) Prior to the expiration of a license, a license holder or authorized representative
[licenssee] must file with the department a sufficient license
renewal application [on a form approved by the department].
Failure to receive notice of license expiration from the
department does not relieve the license holder [licenssee] from
the responsibility to timely file a sufficient license renewal
application. A license renewal application is timely filed if:

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(1) the department receives a sufficient license renewal application on or before the date the license expires;

or

(2) a legible postmark on the envelope transmitting the sufficient license renewal application clearly indicates that the license holder or authorized representative mailed the license renewal application on or before the date the license expires.

(e) An application for a new license or license amendment filed with the department must be sufficient. An application is sufficient if the application:

(1) includes all information and documentation required by the department; and

(2) is filed in accordance with subsection (a) of this section.

(f) [48.] A license renewal application received by the department is sufficient if:

(1) the renewal application form is completed by the licensee or authorized representative of the licensee who is an employee, an unpaid agent, a licensed attorney, or certified public accountant;

(2) accompanied by the required license renewal
application fee payment; and

(3) accompanied by proof of a surety bond, if

required.

(g) If an applicant, license holder, or authorized

representative does not provide the information or documentation

required by the department, the department will issue a written

notice of deficiency. The information or documentation requested

in the written notice of deficiency must be received by the

department within 20 calendar days of the date of the notice of

deficiency, unless the department issues a written extension of

time. If an applicant, license holder, or authorized

representative fails to respond or fully comply with all

deficiencies listed in the written notice of deficiency within

the time prescribed by this subsection, the application will be

deemed withdrawn and will be administratively closed.

(h) The department will evaluate a sufficient application

for a new license, license amendment, or license renewal in

accordance with applicable rules and statutes to determine

whether to approve or deny the application. If the department

determines that there are grounds for denial of the application,

the department may pursue denial of the application in

accordance with Subchapter J of this chapter (relating to

Administrative Sanctions).
(i) The department will process an application for a new license, license amendment, or license renewal filed by a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient application for a license renewal because that license holder was on active duty is exempt from any increased fee or penalty imposed by the department for failing to renew the license in a timely manner.

[(c) A license renewal application is timely filed if:]

[(1) the sufficient license renewal application is received by the department on or before the license expiration date; or]

[(2) a legible postmark on the envelope transmitting the license renewal application clearly indicates that the renewal application was mailed on or before the license expiration date.]

[(d) A timely and sufficient application shall be accepted for processing. The department will review the application and make a final determination whether to approve or deny the application.]

(j)[(c)] A license holder who timely files a sufficient license renewal application in accordance with subsection (d) of this section [A licensee that submits a timely and sufficient

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license renewal application] may continue to operate under the expired license until the license renewal application is [finally] determined.

(k)[(f)] A license holder who fails to timely file a sufficient license renewal application in accordance with subsection (d) of this section [A licensee that fails to file a timely and sufficient license renewal application] is not authorized to continue licensed activities after the date the license expires. A license holder may dispute a decision that a license renewal application was not timely or sufficient by submitting evidence to the department demonstrating that the license renewal application was timely and sufficient. Such evidence must be received by the department within 10 calendar days of the date the department issues notice that a timely or sufficient license renewal application was not received by the department.

[(g) License plates issued pursuant to Transportation Code, Chapter 503, Subchapter C expire upon the date the associated license expires or when a timely and sufficient license renewal application is finally determined, whichever is later.]

[(h)] A licensee may rebut a determination that a renewal application was not timely or sufficient by submitting evidence to the department demonstrating the renewal application was
timely and sufficient. Such evidence must be received by the
department within ten (10) calendar days of the date the
department issues notice that a timely or sufficient license
renewal application was not received by the department.]}

(1) The department shall accept a [A] late license
renewal application [may be filed] up to 90 days after the date
the license expires. In accordance with subsection (k) of this
section, the license holder [license expiration date; however,
the applicant] is not authorized to continue licensed activities
after the date the license expires [license expiration date]
until the department approves the late license renewal
application. If the department grants a license renewal under
this section [renewal license is granted under this subsection],
the licensing period begins on the date the department issues
the renewed license. The license holder [license is issued and
the licensee] may resume licensed activities upon receipt of the
department's written verification or upon receipt of the renewed
license. [the licensee]

(m) If the department has not received a late license
renewal application within 90 days after the date the license
expires, [expiration date] the department will close the
license. A person [The entity] must apply for and receive a new
license before that person [the entity] is authorized to resume

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activities requiring a license.

(n) A metal dealer's license plate issued in accordance with Transportation Code, Chapter 503, Subchapter C expires on the date the associated license expires or when a license renewal application is determined, whichever is later.

§215.84. Brokering, New Motor Vehicles.

(a) For purposes of this subchapter, the phrase "arranges or offers to arrange a transaction," as used in Occupations Code, §2301.002, includes the practice of arranging or offering to arrange a transaction involving the sale of a new motor vehicle for a fee, commission, or other valuable consideration. Advertising is not brokering, provided [Under Occupations Code, §§2301.002, 2301.006, 2301.251 and 2301.252, the definition of "arranges or offers to arrange a transaction" is construed as soliciting or referring buyers for new motor vehicles for a fee, commission, or other valuable consideration. Advertising would not be included in this definition as long as] the person's business primarily includes the business of broadcasting, printing, publishing, or advertising for others in their own names.

(b) A buyer referral service, program, plan, club, or any other entity that accepts a fee [fees] for arranging a
transaction involving the sale of a new motor vehicle is a broker. The payment of a fee to such an entity is aiding and abetting brokering. However, any referral service, program, plan, club, or other entity that forwards a referral to a dealership [referrals-to-dealerships] may lawfully operate in a manner that includes all of the following conditions:

1. There is no exclusive market area [areas] offered to a dealer by the program. All dealers are allowed to participate in the program on equal terms.

2. Participation by a dealer in the program is not restricted by conditions, such as limiting the number of line-makes [franchise-lines] or discrimination by size of dealership or location. The total number of participants in the program may be restricted if the program is offered to all dealers at the same time, with no regard to the line-make.

3. All participants pay the same fee for participation in the program. The program fee [that] shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by the dealer.

4. A person is not to be charged a fee on a per referral fee basis or any other basis that could be considered a
transaction-related fee.

(5) The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in. [vehicles or trade-in.]

(6) The program does not advertise or promote its plan in a manner that implies that the buyer, as a customer of that program, receives a special discounted price that cannot be obtained unless the customer is referred through that program.

(c) Subsections [The provisions of subsections] (a) and (b) of this section do not apply to any person or entity [which is] exempt from the broker definition in Occupations Code, §2301.002. [§2301.002(3)]

(d) All programs must comply with Subchapter H of this chapter (relating to Advertising).


(a) Transportation Code, §503.021 prohibits a person from engaging in business as a dealer, directly or indirectly, including by consignment without a GDN. The phrase "directly or indirectly" [general distinguishing number. "Directly or Indirectly"] includes the practice of arranging or offering to arrange a transaction involving the sale of a used motor vehicle for a fee, commission, or other

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1 valuable consideration. A person who is a bona fide employee of
2 a dealer holding a GDN and acts for the dealer is not a broker
3 for the purposes of this section.
4 (b) A buyer referral service, program, plan, club, or any
5 other entity that accepts a fee for arranging a
6 transaction involving the sale of a used motor vehicle is
7 required to meet the requirements for and obtain a GDN, unless the referral service, program,
8 plan, or club is operated in the following manner:
9 (1) There is no exclusive market area offered to a dealer by the program. All dealers are
10 allowed to participate in the program on equal terms.
11 (2) Participation by a dealer in the program
12 is not restricted by conditions, such as limiting the number of
13 line-makes or discrimination by size of
14 dealership or location. The total number of participants
15 in the program may be restricted if the program is offered to
16 all dealers at the same time, with no regard to the line-make.
17 (3) All participants pay the same fee for
18 participation in the program. The program fee shall be a
19 weekly, monthly, or annual fee, regardless of the size,
20 location, or line-makes sold by the dealer.
dealership.]

(4) A person is not to be charged a fee on a per referral fee basis or any other basis that could be considered a transaction-related fee.

(5) The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in. [vehicles or trade-

(6) The program does not advertise or promote its plan in a manner that implies that the buyer, as a customer of that program, receives a special discounted price that cannot be obtained unless the customer is referred through that program.

(c) All programs must comply with Subchapter H of this chapter (relating to Advertising).

§215.87. License and Metal Dealer's License Plate Terms and Fees.

(a) Except as provided by other law, the term of a license or metal dealer's license plate issued by the department [division] under Occupations Code, Chapter 2301 or Transportation Code, Chapter 503 is two years.

(b) A metal dealer's license plate [Metal-plates] issued by the department expires on the date the associated license expires. [division in connection with a license expire on the

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(c) The fee for a license or metal dealer's license plate is computed by multiplying the applicable annual fee by the number of years of the license term. The entire amount of the fee is due at the time of application for the license or license renewal.

$215.88. Criminal Offense and Action on License.

(a) This section describes board [Board] or department action on a license application or an existing license issued by the department under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, including denial, revocation, and suspension, and identifies the types of criminal offenses that directly relate to the duties and responsibilities of the occupations licensed under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301.

(b) Except as provided by subsection (e) of this section, the board [Board] or department will consider denial of an application for a license or revocation or suspension of a license in accordance with the requirements of:

(1) Occupations Code, Chapter 53;
(2) Occupations Code, Chapter 2301, Subchapter N;
(3) Government Code, Chapter 2001 [Administrative...
Procedure Act); and

(4) board [Board] rules.

(c) The terms [term] "applicant" or "person" as used in this section includes:

(1) an applicant for a license or other authorization issued by the department;

(2) the holder of a license or other authorization issued by the department;

(3) a person's spouse with a community property interest in the entity licensed or to be licensed by the department;

(4) a controlling shareholder of a business entity licensed by the department;

(5) a person holding 50% or more ownership interest in a business entity licensed by the department;

(6) a person acting in a representative capacity for the applicant or license holder, including an owner, president, vice-president, member of the board of directors, chief executive officer, chief financial officer, chief information officer, chief managing officer, treasurer, controller, director, principal, manager of business affairs, or similar position of a business entity; or

(7) any person who becomes a person described in this
subsection.

(d) An action taken by the board [Board] or department under this section may be based on an act or omission by an officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder.

(e) Upon receipt of an order or notice regarding an applicant or license holder issued under Family Code, Chapter 232, the board [Board] or department will deny [refuse to approve] an application for issuance of a license, will not renew an existing license, or will suspend a license or other authorization issued by the department. The board's [Board] or department's action, based upon receipt of an order or notice issued under Family Code, Chapter 232, on the application for a license or existing license is not subject to the provisions of Government Code, Chapter 2001, including notice, hearing, or opportunity for hearing. Upon [On] receipt of an order vacating or staying an order suspending a license issued under Family Code, Chapter 232, the board [vacating or staying an order suspending a license, the Board] or department will issue the affected license to the applicant or license holder if the applicant or license holder is otherwise qualified for the license.

(f) No person currently imprisoned for conviction of a
felony under any state or federal law is eligible for **or may**
retain a license or authorization issued by the department.

(g) The **board** or department will revoke a license
issued by the department upon the **license holder's** imprisonment following a felony conviction, felony community
supervision revocation, revocation of parole, or revocation of
mandatory supervision.

(h) The **board** or department may revoke a license
issued by the department upon the license holder's imprisonment
for a felony conviction, felony community supervision
revocation, revocation of parole, or revocation of mandatory
supervision, of a person defined by [in] subsection (c) of this
section or identified in subsection (d) of this section.

(i) The **board** or department may suspend a license,
revoke a license, or disqualify a person from receiving a
license issued by the department if:

(1) a person has been convicted of an offense that
directly relates to the duties and responsibilities of the
licensed occupation. Any such action shall be made 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;

(2) a person has been convicted of an offense that
does not directly relate to the duties and responsibilities of
the licensed occupation and that was committed less than five
years before the date the person applies for the license;
(3) a person has been convicted of an offense listed
in Code of Criminal Procedure, Article 42.12, Section 3g;
[Section 3g, Article 42.12, Code of Criminal Procedure;] or
(4) a person has been convicted of a sexually violent
offense, as defined by Code of Criminal Procedure, Article
62.001. [Article 62.001, Code of Criminal Procedure.]
(j) For purposes of Occupations Code, §53.021, the
following criminal offenses directly relate to the duties and
responsibilities of the occupations licensed by the department:
(1) Penal Code, Chapter 15, Preparatory Offenses;
(2) Penal Code, Chapter 16, Criminal Instruments,
Interception of Wire or Oral Communication, and Installation of
Tracking Device;
(3) Penal Code, Chapter 19, Criminal Homicide;
(4) Penal Code, Chapter 20, Kidnapping, Unlawful
Restraint, and Smuggling of Persons;
(5) Penal Code, Chapter 20A, Trafficking of Persons;
(6) Penal Code, Chapter 21, Sexual Offenses;
(7) Penal Code, Chapter 22, Assultive Offenses;
(8) Penal Code, Chapter 25, Offenses Against [against]
the Family;

(9) Penal Code, Chapter 28, Arson, Criminal Mischief, and Other Property Damage or Destruction;

(10) Penal Code, Chapter 29, Robbery;

(11) Penal Code, Chapter 30, Burglary and Criminal Trespass;

(12) Penal Code, Chapter 31, Theft;

(13) Penal Code, Chapter 32, Fraud;

(14) Penal Code, Chapter 33, Computer Crimes;

(15) Penal Code, Chapter 33A, Telecommunications Crimes;

(16) Penal Code, Chapter 34, Money Laundering;

(17) Penal Code, Chapter 35, Insurance Fraud;

(18) Penal Code, Chapter 36, Bribery and Corrupt Influence;

(19) Penal Code, Chapter 37, Perjury and Other Falsification;

(20) Penal Code, Chapter 38, Obstructing Governmental Operation;

(21) Penal Code, Chapter 71, Organized Crime;

(22) Code of Criminal Procedure, Chapter 62, Sex Offender Registration Program, involving an offense for which the person has been required to register as a sex offender;
(23) Transportation Code, Chapter 501, Certificate of Title Act;
(24) Transportation Code, Chapter 502, Registration of Vehicles;
(25) Transportation Code, Chapter 503, Dealer's and Manufacturer's Vehicle License Plates;
(26) Transportation Code, Chapter 504, License Plates;
(27) Transportation Code, Chapter 520, Miscellaneous Provisions;
(28) Transportation Code, Chapter 547, Vehicle Equipment;
(29) Transportation Code, Chapter 548, Compulsory Inspection of Vehicles;
(30) Transportation Code, Chapter 727, Modification of, Tampering with, and Equipment of Motor Vehicles;
(31) Transportation Code, Chapter 728, Subchapter B, Sale of Master Key for Motor Vehicle Ignitions;
(32) Occupations Code, Chapter 2301, Subchapter R, Regulation of Certain Commercial Uses of Motor Vehicles;
(33) Tax Code, Chapter 23, Appraisal Methods and Procedures;
(34) Tax Code, Chapter 152, Taxes on Sale, Rental, and Use of Motor Vehicles;
(35) Business and Commerce Code, Chapter 17, Deceptive Trade Practices;

(36) Health and Safety Code, Chapter 365, Litter;

(37) Health and Safety Code, Chapter 481, Texas Controlled Substances Act;

(38) Health and Safety Code, Chapter 482, Simulated Controlled Substances;

(39) Health and Safety Code, Chapter 483, Dangerous Drugs;

(40) Water Code, Chapter 7, Enforcement;


(42) United States Code, Title 18, Chapter 63, Mail Fraud and Other Fraud Offenses;

(43) United States Code, Title 49, Chapter 301, Motor Vehicle Safety, especially 49 U.S.C. §30170, Criminal Penalties;

or


$215.89. Fitness.

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(a) In determining a person's fitness for a license issued or to be issued by the department under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, the board [Board] or department will consider:

(1) the requirements of Occupations Code, Chapter 53;
(2) the provisions of Occupations Code, §2301.651;
(3) any specific statutory licensing criteria or requirements;
(4) mitigating factors; and
(5) other evidence of a person's fitness, as allowed by law, including the standards identified in subsection (b) of this section.

(b) The board [Board] or department may determine that a person is unfit to perform the duties and discharge the responsibilities of a license holder and may, following notice and an opportunity for hearing, deny a person's license application or revoke or suspend a license if the person:

(1) fails to meet or maintain the qualifications and requirements of licensure;
(2) is convicted by any local, state, or federal authority of an offense listed in §215.88(j) of this title (relating to Criminal Offense and Action on License) or is convicted in any jurisdiction of an offense containing elements
that are substantially similar to the elements in the offenses
in §215.88(j) [of this title];

(3) omits information or provides false, misleading,
or incomplete information regarding a criminal conviction on an
initial application, renewal application, or application
attachment for a license or other authorization issued by the
deptartment or by any local, state, or federal regulatory
authority;

(4) is found to have violated an administrative or
regulatory requirement based on action taken on a license,
permit, or other authorization, including disciplinary action,
revocation, suspension, denial, corrective action, cease and
desist order, or assessment of a civil penalty, administrative
fine, fee, or similar assessment, by the board [Board],
department, or any local, state, or federal regulatory
authority;

(5) is insolvent or fails to obtain or maintain
financial resources sufficient to meet the financial obligations
of the licensee;

(6) is a corporation that fails to maintain its
charter, certificate, registration, or other authority to
conduct business in Texas;

(7) is assessed a civil penalty, administrative fine,
fee, or similar assessment by the board [Board], department, or
a local, state, or federal regulatory authority for violation of
a requirement governing or impacting the distribution or sale of
a vehicle or a motor vehicle and fails to comply with the terms
of a final order or fails to pay the penalty pursuant to the
terms of a final order;

(8) was or is a person defined by §215.88(c) [in
§215.88(c) of this title] or identified in §215.88(d) [of this
title], or a manager or affiliate of a sole proprietorship,
partnership, corporation, association, trust, estate, or other
legal entity whose actions or omissions could be considered
unfit, who is ineligible for licensure, or whose current or
previous license, permit, or other authorization issued by any
local, state, or federal regulatory authority has been subject
to disciplinary action including suspension, revocation, denial,
corrective action, cease and desist order, or assessment of a
civil penalty, administrative fine, fee, or similar assessment;

(9) has an ownership interest with a person whose
actions or omissions could be considered unfit, who is
ineligible for licensure, or whose current or previous license,
permit, or other authorization issued by any local, state, or
federal regulatory authority has been subject to disciplinary
action, including suspension, revocation, denial, corrective
action, cease and desist order, or assessment of a civil
penalty, administrative fine, fee, or similar assessment, by the
board, department, or any local, state, or federal
regulatory authority;

(10) is a business entity that is operated, managed,
or otherwise controlled by a relative or family member and that
person could be considered unfit, is ineligible for licensure,
or whose current or previous license, permit, or other
authorization issued by any local, state, or federal regulatory
authority has been subject to disciplinary action, including
suspension, revocation, denial, corrective action, cease and
desist order, or assessment of a civil penalty, administrative
fine, fee, or similar assessment; or

(11) is found in an order issued through a contested
case hearing to be unfit or
acting in a manner detrimental to the system of distribution or
sale of motor vehicles in Texas, the economy of the state, the
public interest, or the welfare of Texas citizens.
SUBCHAPTER D. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS,
AND CONVERTERS

§215.101. Purpose and Scope. [Objective -]

This subchapter implements [The objective of these rules is to
implement the intent of the legislature as declared in]
Occupations Code, Chapter 2301[7] and Transportation Code,
Chapters 503 and 1000 - 1005. [1000 through 1005, by prescribing
rules to regulate businesses requiring licenses under the Code.]


(a) A service-only facility is a location occupied and
operated by a franchised dealer that is a completely separate,
noncontiguous [non-contiguous] site, from the franchised
dealer's new motor vehicle sales and service or sales only
location, where the franchised dealer will only perform warranty
and nonwarranty [non-warranty] repair services. Except as
allowed in subsection (d) of this section, warranty repair
services may only be performed at either a licensed dealership
or a licensed service-only facility.

(b) A franchised dealer must obtain a license to operate a
service-only facility. A [The] dealer may not obtain a service-
only facility license to service a particular line of new motor

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vehicles, unless that [the] dealer is franchised and licensed to
sell that line.

(c) A service-only facility is [considered] a dealership
[under Occupations Code, §2301.002(b), and is therefore] subject
to protest under Occupations Code, Chapter 2301. [§2301.652.]

(d) Upon the manufacturer's or distributor's prior written
approval, which cannot be unreasonably withheld, only a
franchised dealer of the manufacturer or distributor may
contract with another person as a subcontractor [sub-contractor]
to perform warranty repair services that the dealer is
authorized to perform under a franchise agreement with a
manufacturer or distributor. Payment shall be made by the
franchised dealer to the subcontractor [sub-contractor] and not
by the manufacturer or distributor to the subcontractor. [sub-
contractor.]

(e) A person with whom a franchised dealer contracts[—as
described in subsection (d) of this section] to perform
warranty repair services is not eligible to obtain a service-
only facility license and may not advertise [to the public] the
performance of warranty repair services in any manner to the
public.

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§215.104. Changes to Franchised Dealer's [Dealer] License.

(a) In accordance with Occupations Code, §2301.356, a franchised dealer must file an application to amend the franchised dealer's license in order to request inclusion of an additional line-make at the dealer's currently licensed showroom.

(1) In accordance with §215.110 of this title (relating to Evidence of Franchise), the franchised dealer must attach to the amendment application a copy of:

(A) the executed franchise agreement;

(B) the required excerpt from the executed franchise agreement; or

(C) an evidence of franchise form completed by the manufacturer, distributor, or representative.

(2) The amendment application for an additional franchise at the showroom is considered an original application and is subject to protest, in accordance with Occupations Code, Chapter 2301.

[(a) To effectuate Occupations Code, §2301.356, every licensed dealer who proposes to conduct business at a currently licensed showroom under a franchise that is additional to or that differs from the franchise or franchises on which the

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license is then based shall file an application to amend the license on the form prescribed by the division, attaching a copy of the franchise agreement. The amended application will be considered as if it were an original application to operate under the additional franchise as to all matters except those reflected by the license as issued.]

(b) A franchised dealer may propose to sell or [licensed dealer who proposes to sell and/or] assign to another any interest in the licensed entity, whether a corporation or otherwise, provided [so long as] the physical location of the licensed entity remains the same. [

(1) The franchised dealer shall notify the department [division] in writing within 10 [ten] days of the sale or assignment of interest [change] by filing an application to amend the franchised dealer's license.

(2) If the sale or assignment of any portion of the business results in a change of business entity, then the purchasing entity or assignee [purchasing/assignee entity] must apply for and obtain a new license in the name of the new business entity.

(3) A publicly-held corporation needs only to [Publicly held corporations need only] inform the department

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[division] of a change in ownership if one person or entity
acquires 10% or greater interest in the licensed entity.

(c) A franchised dealer is required to file an amendment
application within 10 days of a license change, including:

(1) deletion of a line-make from the dealer's license;
(2) a change of assumed name on file with the Office
of the Secretary of State or county clerk;
(3) a change of mailing address;
(4) a change of telephone number;
(5) a change of facsimile number; or
(6) a change of email address.

(d) A franchised dealer is required to file a business
entity amendment application within 10 days of an entity change,
including:

(1) a change in management, dealer principal, or
change of other person who is in charge of a franchised dealer's
business activities, including a managing partner, officer,
director of a corporation, or similar person; or
(2) a change of legal entity name on file with the
Office of the Secretary of State.

[(e) In the event of a change in management reflected by a]
change of the general manager, dealer principal, or other person
who is in charge of a licensee's business activities, whether a
managing partner, officer, or director of a corporation, or
otherwise, the division shall be advised by means of an
application for an amended license.]

(e) [+] If a licensed new motor vehicle dealer changes or
converts from one type of business entity to another type of
business entity without changing ownership of the dealership,
the submission of a franchise agreement in the name of the new
entity is not required in conjunction with an application. The
franchise agreement on file with the department [division] prior
to the change or conversion of the dealer's business entity type
applies to the successor entity until the parties agree to
replace the franchise agreement. This subsection does not apply
to a sole proprietorship or general partnership.

(f) [+] If a dealer adopts a plan of conversion under a
state or federal law that allows one legal entity to be
converted into another legal entity, only an application to
amend the license is necessary to be filed with the department
[division]. The franchise agreement on file with the department
[division] continues to apply to the converted entity. If a
license holder becomes another legal entity [the entity change
is accomplished] by any means other than by conversion, a new
application is required, subject to subsection (e) of this
section.

(g) In addition to obtaining permission from the
manufacturer or distributor, a franchised dealer shall obtain department approval prior to opening a supplemental location or relocating an existing location. A franchised dealer must notify the department when closing an existing location.

§215.105. Notification of License Application; Protest Requirements.

(a) The provisions of this section are not applicable to an application filed with the department for a franchised dealer license as a result of the purchase or transfer of an existing entity holding a current franchised dealer's license that does not involve a physical relocation of the purchased or transferred line-makes.

(b) Upon receipt of an application for a new motor vehicle dealer's license, including an application filed with the department by reason of the relocation of an
existing dealership, the department [division] shall give notice of the filing of the application to each franchised dealer [all dealer licensees] that may have standing to protest the application.

(c) If it appears to the department that there are no dealers with standing to protest, then no notice shall be given.

(d) A person holding a franchised dealer's license for the sale of the same line-make of new motor vehicle [Any dealer licensee holding a franchise of a new motor vehicle as] proposed for sale in the subject application and that has [with] standing to protest the application may file with the department [division] a notice of protest opposing [in opposition to the application and] the granting of a license.

(e) A franchised [The] dealer that wishes to protest the application shall give notice in accordance with Occupations Code, Chapter 2301. [Its notice of protest in the following manner:]

(1) The notice of protest shall be in writing and shall be signed by an authorized officer or other official authorized to sign on behalf of the protesting dealer [licensee] filing the notice.

(2) The notice of protest shall state the statutory
basis upon which the protest is made and assert how the
protesting dealer meets the standing requirements under §215.119
of this title (relating to Standing to Protest) to protest the
application.

(3) The notice of protest shall state that the protest
is not made for purposes of delay or for any other purpose
except for justifiable cause.

(4) If a protest is filed against an application for
the establishment of a dealership or for addition of a line-make
at an existing dealership, the notice of protest shall state
under which [the] provision of Occupations Code, Chapter 2301[1]
under which] the protest is made.

(e) The provisions of this section shall not be applicable
to any application filed with the division for a dealer license
as a result of the purchase or transfer of an existing entity
holding a current franchise license which does not involve any
physical relocation of the purchased or transferred line-maker.]

§215.106. Time for Filing Protest.

(a) A notice of protest must be:

(1) received by the department [in the division
offices in Austin] not later than 5:00 p.m. Central Standard
Time (CST) on the date 15 days from the date of mailing of the department's notification to the license holder [licensees] of the filing of the application;

(2) filed with the department by United States mail, facsimile, hand delivery, or through the department's designated electronic filing system when available; however, a notice of protest may not be filed by email; [e-mail] and

(3) accompanied by the [statutorily required] protest filing fee. If the filing fee does not accompany the notice of protest, the [statutorily required protest filing] fee must be received by the department [in the division offices in Austin] not later than 5:00 p.m. CST on the date 20 days from the date of mailing of the department's notification to the license holder [licensees] of the filing of the application.

(b) The department will reject a notice of protest if:

(1) the complete notice of protest is not filed within 15 days from the date of mailing of the department's notification to the license holder of the filing of the application; or

(2) the required filing fee is not remitted within 20 days from the date of mailing of the department's notification.
to the license holder of the filing of the application.

[(b) Failure to file a formal notice of protest within the specified time period shall result in the disallowance of the protest.]

[(c) Failure to remit the statutorily required protest filing fee within the specified time period shall result in the disallowance of the protest.]

§215.108. Addition or Relocation of Line-make.[Line-Make]

An application to amend [for the amendment of] an existing new motor vehicle dealer's license for [by] the addition of another line-make at the existing dealership or for the relocation of a line-make to the existing dealership shall be deemed [to be] an "application to establish a dealership" insofar as the line-make to be added is concerned, and shall be subject to the provisions of §215.105 of this title (relating to Notification of License Application; Protest Requirements) and §215.106 of this title (relating to Time for Filing Protest). [§§215.105-215.107 of this subchapter (relating to Notification of License Application; Protest Requirements; Time for Filing Protest; and Hearing).]

An application for a new motor vehicle dealer's license for a dealership intended as a replacement for a previously existing dealership shall be deemed an application for a "replacement dealership" required to be established in accordance with Occupations Code, §2301.454 and shall not be subject to protest under the provisions of §215.105 of this title (subchapter) (relating to Notification of License Application; Protest Requirements), provided that:

(1) the application states that the applicant is intended as a replacement dealership and identifies the prior dealership to be replaced;

(2) the manufacturer or distributor of the line-make gives notice to the department and to other dealers franchised for the same line-make that meet the provisions of Occupations Code, §2301.652(b); and

(3) the notice under paragraph (2) of this subsection is given within 60 days following the closing of the prior dealership;

(4) the application is filed with the department.
[division] not later than one year following the closing of the
prior dealership; and

(5)[(4)] the location of the applicant's proposed
dealership is not more than two miles [greater than two miles]
from the location of the prior dealership.

§215.110. Evidence of Franchise.

(a) Upon application for a new motor vehicle dealer's
license or an amendment of an [dealer license, or application
for amendment of] existing new motor vehicle dealer's [dealer]
license to add a line-make, [in addition to other attachments
required to be submitted with the application,] the applicant
must submit a photocopy of the [these] pages of the franchise
agreement(s) that [which] reflect the parties to the
agreement(s), [and] the authorized signatures of the parties to
the agreement(s), and each line-make [for each line of motor
vehicle] listed in the application. To meet this requirement
temporarily for the purpose of application processing, a [A]
form prescribed by the department [division] and completed by
the manufacturer or distributor [manufacturer/distributor] may
be submitted with the application in lieu of the information
described in this subsection [to meet this requirement]
temporarily, for purposes of application processing]. The applicant must submit the required photocopies of the franchise agreement(s) described in this subsection immediately upon the applicant's receipt of the franchise agreement(s).

(b) Upon application to relocate a new motor vehicle dealership, [in addition to other attachments required to be submitted with the application,] the applicant must submit a form prescribed by the department [division] and completed by the manufacturer or distributor [manufacturer/distributor] that identifies the license holder [licensee] and the new location.

§215.111. Notice of Termination or Discontinuance


A notice of termination or discontinuance [noncontinuance] of a dealer's franchise shall be given by a manufacturer or distributor in accordance with [the requirements of] Occupations Code, §2301.453[7] not less than 60 days prior to the effective date of the franchise termination or discontinuance [thereof]. A notice of protest of the franchise termination or discontinuance [noncontinuance] by a dealer pursuant to Occupations Code, §2301.453[7] shall be in writing and shall be filed with the
department [in the Board's office in Austin] prior to the effective date of the franchise termination or discontinuance stated in the notice from the manufacturer or distributor.


(a) Applicability. This rule implements Occupations Code, Section 2301.358 and is expressly limited to motor home shows that require department approval in accordance with subsection (b) of this section.

(b) Show approval required. Without written approval by the department, a person may not promote or conduct a show involving a new motor home that will be sold or offered for sale.

(c) Show requirements. The department may approve a motor home show in accordance with this section if the show:

(1) does not exceed six consecutive days;

(2) is not conducted within 90 days of a previous show in the same county; and

(3) complies with Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1000 – 1005; and board rules.

(d) The department may authorize additional motor home shows.
shows in any county upon a showing of good cause by the promoter
for waiver from the show requirements of subsection (c) of this
section.

(e) Show approval requirements. For purposes of this
section, the promoter or coordinator of a motor home show must
submit an application to the department. The application must:

(1) be completed and submitted on a form and in the
manner prescribed by the department;

(2) be accompanied by all required attachments;

(3) be submitted no less than 30 days and no more than
90 days before the proposed show date;

(4) be accompanied by a $25,000 surety bond if the
promoter or coordinator of the show is not a license holder, an
association of license holders, or an organization of license
holders;

(5) affirm that at least three franchised dealers of
new motor homes, each participating with at least one different
line-make, will participate in the show;

(6) affirm that each franchised dealer that
participates in the show holds a valid franchised dealer's
license issued by the department for each motor home line-make
that the franchised dealer will participate with in the show;
and

(7) designate either Saturday or Sunday for suspension

of the sale of any motor home, in accordance with Transportation

Code, Chapter 728, Subchapter A, when the show is conducted over

a consecutive Saturday and Sunday.

(f) Dealer participation approval required. Without written

approval by the department, a motor home dealer may not

participate in a show of new motor homes, where a motor home

will be sold or offered for sale.

(g) Dealer participation requirements. A dealer of new

motor homes requesting approval to participate in a show must

submit a sufficient application to the department. To be

sufficient, the application must be on a form prescribed by the

department and accompanied by all required attachments.

(h) Located within 70 miles of show site. For the purpose

of this section, a franchised dealer located within 70 miles of

the site of the proposed show has a right equal to any other

franchised dealer that is also located within 70 miles of the

show site to participate in the show with a like-line motor

home.

(i) Located more than 70 miles from show site. For the

purpose of this section, a franchised dealer that is located
more than 70 miles from the proposed show site does not have a
right to participate in the show; however, the department may
approve that franchised dealer to participate in the motor home
show, if:

(1) there is no franchised dealer of a like-line motor
home located within 70 miles of the proposed show site; or

(2) the franchised dealer obtains a written waiver
from each like-line franchised motor home dealer located within
70 miles of the proposed show site.

(j) Suspension of sales. For the purpose of this section
and pursuant to Transportation Code, Chapter 728, Subchapter A,
when a show is conducted over a consecutive Saturday and Sunday,
all franchised dealers of motor homes will suspend sales on the
same Saturday or Sunday, as designated by the show promoter or
coordinator. On the day sales are suspended, a motor home
dealer:

(1) may quote a price;

(2) may open and attend to the motor home product;

(3) may not sell, offer to sell, negotiate a price, or
enter into a contract or letter of intention to contract for the
sale of the motor home; and

(4) is not required to remove or cover the suggested
retail price the manufacturer may have affixed to the motor home.

[(a) A dealer licensed by the division who is authorized to sell new motor homes may attend and sell at any motor home show that has been approved by the division.]

[(b) The scope of this rule is expressly limited to new motor home shows and exhibitions. It does not apply to other types of motor vehicle distribution activities, static displays, or any other provision of Occupations Code, Chapter 2301 other than §2301.355 and §2301.358. Other motor vehicle shows, exhibitions, or static displays will be reviewed by division staff on a case-by-case basis.]

[(c) Approval must be sought by the show promoter or coordinator no less than 30 days and no more than 90 days prior to the proposed show date. All applications for motor home shows must be submitted on the forms and in the manner prescribed by the division, and must be accompanied by all required attachments. If the promoter or coordinator is not a licensee, an association of licensees, or organization of licensees, the application must be accompanied by a $25,000 surety bond to assure compliance with Occupations Code, Chapter 2301 and department rules, as well as other regulations pertaining to the
sale of new motor vehicles.

[(d) There must be at least three dealers participating in the show, representing at least three different line-makes at the show, for the show to qualify for approval. Each participating new motor vehicle dealer must have a current, valid, Texas new motor vehicle dealer's license to sell the particular line of motor home to be shown.]

[(e) The duration of any motor home show shall not exceed six consecutive days. If a show is conducted over a consecutive Saturday and a Sunday, sales will be suspended by all motor vehicle dealers on the same Saturday or Sunday to achieve uniform compliance with the Blue Law under Transportation Code, Chapter 729, Subchapter A. On the day sales are suspended, a motor home dealer:

[(1) may quote a price and discuss finance options;

[(2) may not sell, offer to sell, negotiate a price, or enter into a contract or letter of intention to contract for the sale of the product;

[(3) may open and attend to the motor home product;

[(4) is not required to remove or cover the suggested retail price the manufacturer may have affixed to the motor home.]

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[(f) No motor home show shall occur in a county within 90
days of a previous motor home show within that county. Upon a
showing of good cause, the division may authorize additional
motor home shows in any county. Any motor home dealer may attend
a motor home show so long as no like-line dealership is located
within 70 miles of the show site, unless a written waiver is
obtained from the like-line dealer or dealers located within 70
miles of the show site. Any like-line dealer within 70 miles of
the show site has a superior and exclusive right to represent
that line at the proposed show. If there are two or more like
line dealers located within 70 miles of the show site, each has
equal right to participate in the proposed show.]

$215.113. Manufacturer Ownership of Franchised Dealer; Good
Cause Extension; Dealer Development.

(a) In the absence of a showing of good cause, an [Am]
application for a new motor vehicle dealer’s license of [in]
which a manufacturer or distributor[as those terms are defined
in Occupations Code, Chapter 2301] owns any interest in or has
control of the dealership entity must be submitted to the
department [division] no later than 30 days before:

(1) the opening of the dealership;[r]
(2) close of the buy-sell agreement; [\textit{r}] or

(3) the expiration of the current license[\textit{r}], whichever is the case].

(b) If a manufacturer or distributor applies for a new motor vehicle dealer's license of [\textit{m}] which the manufacturer or distributor holds an ownership interest in or has control of the dealership entity in accordance with [under the terms of] Occupations Code, \$2301.476(d) - (f) [\$2301.476(d)], the license application must contain a sworn statement from the manufacturer or distributor that the dealership was purchased from a franchised dealer and is for sale at a reasonable price and under reasonable terms and conditions, and that the manufacturer or distributor intends to sell the dealership to a person not controlled or owned by the manufacturer or distributor within 12 months of acquiring the dealership, except as provided by [\textit{m}] subsection (h) of this section.

(c) A request for an extension of the initial 12 month period for manufacturer or distributor ownership or control of a new motor vehicle dealership, in accordance with Occupations Code, \$2301.476(e), must be submitted to the department in accordance with subsection (a) of this section[\textit{r}] along with a sufficient [\textit{complete}] application to renew the new motor vehicle
dealer's license. The request must contain a detailed 
explanation, including appropriate documentary support, to show 
the manufacturer's or distributor's good cause for failure to 
sell the dealership within the initial 12 month period. The 
director will evaluate the request and determine whether the 
license should be renewed for a period not to exceed 12 months 
or deny the renewal application. If the renewal application is 
denied, the manufacturer or distributor may request a hearing on 
the denial [to be conducted] in accordance with Occupations 
Code, §§2301.701 - 2301.713.

(d) Requests for extensions after the first extension is 
granted, as provided by [in] Occupations Code, §2301.476(e), 
must be submitted at least 120 days before the expiration of the 
current license. Upon receipt of a subsequent request, the board 
[Board] will initiate a hearing in accordance with Occupations 
Code, §§2301.701 - 2301.713, at which the manufacturer or 
distributor will be required to show good cause for the failure 
to sell the dealership. The manufacturer or distributor has the 
burden of proof and the burden of going forward on the sole 
issue of good cause for the failure to sell the dealership.

(e) The department [division] will give notice of the 
hearing described in subsection (d) of this section to all other
franchised dealers [dealer-licensees] holding franchises for the
sale and service or service only of the same line-make of new
motor vehicles that [where] are located in the same county in
which the dealership owned or controlled by the manufacturer or
distributor is located or in an area within 15 miles of the
dealership owned or controlled by the manufacturer or
distributor. Such dealers, if any, will be allowed to intervene
and protest the granting of the subsequent extension. Notices of
intervention by dealers afforded a right to protest under
Occupations Code, §2301.476(e)(7) must be filed with the
department [division's Docket Clerk] within 15 days of the date
of mailing of the notice of hearing, and a copy must be [with a
copy] provided to the manufacturer or distributor. The
department will reject a notice of intervention if the notice is
not filed at least 30 days before: [Failure to file a formal
notice of intervention within the specified time period will
result in the disallowance of the intervention.]

(1) the opening of the dealership;
(2) close of the buy-sell agreement; or
(3) the expiration of the current license.

(f) A hearing under subsection (d) [subsections (d) and
{e+i]} of this section will be conducted as expeditiously as

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possible, but not later than 120 days after receipt of the
subsequent request for extension from the manufacturer or
distributor. An [AOAH] ALJ will prepare a written decision and
proposed findings of fact and conclusions of law as soon as
possible, but not later than 60 calendar days after the hearing
is closed. The new motor vehicle dealer's license that is the
subject of the hearing will continue in effect until a final
decision on the request for a subsequent extension is rendered
by the board. [Board on the request for a subsequent extension.]
(g) The procedures [procedure] described in subsections (d)
- (f) of this section will be followed for all extensions
requested by the manufacturer or distributor after the initial
extension.

(h) An application for a new motor vehicle dealer's license
of [n] which a manufacturer or distributor owns any interest in
the dealership entity in accordance with [under the terms of]
Occupations Code, §2301.476(g)[r] must contain sufficient
documentation to show that the applicant meets the requirements
of Occupations Code, §2301.476(g). [the following:]
[(l) that the dealer development candidate is part of
a group of persons who have historically been underrepresented
in the manufacturer's or distributor's dealer body or is an]
otherwise qualified person who lacks the resources to purchase a dealership outright]

[(2) that the manufacturer or distributor is in a bona fide relationship with the dealer development candidate;]

[(3) that the dealer development candidate has made a significant investment in the dealership, subject to loss;]

[(4) that the dealer development candidate has an ownership interest in the dealership, and]

[(5) that the dealer development candidate operates the dealership under a plan to acquire full ownership of the dealership within a reasonable time and under reasonable terms and conditions.]


A manufacturer or distributor [who is] licensed under Occupations Code, Chapter 2301[7] or a wholly owned [wholly-owned] subsidiary of a manufacturer or distributor, may sell motor vehicles it owns to dealers through a licensed Texas wholesale motor vehicle auction. A GDN issued to a licensed manufacturer, distributor, or wholly owned subsidiary of a
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manufacturer or distributor shall be canceled, unless otherwise
allowed under Occupations Code, Chapter 2301. [General
distinguishing numbers currently issued to licensed
manufacturers, distributors, or their wholly-owned subsidiaries
shall be cancelled on the date this rule becomes effective,
except where otherwise allowed under the Code.]

§215.115. Manufacturer, Distributor, and Converter Records.

(a) A manufacturer or distributor must maintain, for a
minimum period of 48 months, a record of each vehicle sold to
any person in this state. The manufacturer or distributor shall
make the record available during business hours for inspection
and copying by a representative of the department.

(b) A converter must maintain, for a minimum period of 48
months, a record of each vehicle converted to any person in this
state, including to a Texas franchised dealer. The converter
shall make the record available during business hours for
inspection and copying by a representative of the department.

[(a) Manufacturers and distributors must keep records of
all vehicles they sell to any person in this state for a minimum
period of 48 months. These records shall be made available for
inspection and copying by a representative of the department]
1. during business hours.)

2. [(b) Converters must keep records of all vehicles converted
3. and distributed to Texas franchised dealers for a minimum period
4. of 48 months. These records shall be made available for
5. inspection and copying by a representative of the department
6. during business hours.)]

7. (c) A manufacturer, distributor, or converter is required
8. to maintain at its licensed location a record reflecting each
9. purchase, sale, or conversion for a minimum period of 24 months.

10. [Records reflecting purchases, sales, or conversions for at
11. least the preceding 24 months must be maintained at the licensed
12. location. Records for prior time periods may be kept off-site.]
13. Records for prior time periods may be kept off-site.
14. (d) Within 15 days of [Open] receipt of a request sent by
15. mail or electronic document transfer from a representative of
16. the department, a manufacturer, distributor, or converter must
17. submit a copy [copies] of specified records to the address
18. listed in the request [within 15 days].

19. (e) Records required to be maintained [Records required to
20. be kept] and made available to the department must include the
21. following: [shall contain the following information:]
22. (1) the date of sale or conversion of the motor

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vehicle;

(2) the VIN [vehicle identification number];

(3) the name and address of the purchasing dealer or converter;

(4) a copy of or a record [copies of or records] with the information contained in the manufacturer's certificate of origin [Manufacturer's Certificate of Origin] or title;

(5) information regarding the prior status of the motor vehicle such as the Reacquired Vehicle Disclosure Statement;

(6) the repair history of any motor vehicle subject to a warranty complaint;

(7) technical service bulletin [bulletins] or equivalent advisory; and [advisories; and,]

(8) any audit of a dealership. [audits of dealerships.]

(f) Any record required by the department may be maintained [Electronic records. Any records required to be kept may be kept] in an electronic format, if the electronic record [records] can be printed at the licensed location upon request for the record by a representative of the department.
§215.116. Lease or Sublease Listing.

A dealer that lists its dealership for lease or sublease to mitigate damages in accordance with Occupations Code, §2301.4651(e)[r] is required to list for lease or sublease:

(1) the entire real property if the termination or discontinuance effectively terminates all line-makes and all franchises for the entire dealership; or

(2) only that portion of the real property associated with the terminated line-make or franchise, if the termination or discontinuance does not affect all line-makes and all franchises of the dealership.


(a) A market value property appraisal assessment made in accordance with Occupations Code, §2301.482(c)[r] requires three general certified real estate appraisers [that have been] certified by the State of Texas.

(b) Necessary real estate and necessary construction are each determined by the applicable property use agreement.

(c) To determine market value of property in accordance with Occupations Code, §2301.482(c), an average of the market value property appraisals will be calculated from the
independent market value property assessment determinations of
the three general certified real estate appraisers.

§215.118. Determination of Affected County for Dealership
Relocation.

The most recent population data reported by the federal
decennial census is used to identify an affected county defined
by [under] Occupations Code, §2301.6521.

§215.119. Standing to Protest.

(a) A protesting dealer [protestant] has the burden to
demonstrate standing to protest.

(b) Standing requirements are established by the type of
application.

(1) Protest of an application to establish a
dealership or to add a new line-make to an existing dealership
requires the protesting dealer [protestant] to meet standing
requirements under Occupations Code, §2301.652;

(2) Protest of an application to relocate a dealership
requires the protesting dealer [protestant] to meet standing
requirements under Occupations Code, §2301.652;

(3) Protest of an application to relocate a dealership

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within an affected county or from an affected county to an
adjacent affected county requires the protesting dealer
(protestant) to meet standing requirements under Occupations
Code, §2301.6521;

(4) Protest of an application to relocate an
economically impaired dealership requires the protesting dealer
(protestant) to meet standing requirements under Occupations
Code, §2301.6522; and

(5) Protest of an application filed by a manufacturer,
distributor, or representative for an extension of time for
ownership or control of a dealership requires the protesting
dealer (protestant) to meet standing requirements under
Occupations Code, §2301.476.

(c) A person has standing to protest an application to
establish a dealership or to add a franchised line-make at an
existing dealership if:

(1) the person is a franchised dealer of the same
line-make; and

(2) the person's dealership is located either in the
same county as, or within 15 miles of, the dealership for which
the application was filed.

(d) Except as provided in subsections (e) and (f) of this

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section, a person has standing to protest an application to
relocate a dealership or to relocate a franchised line-make of
an existing dealership if:

(1) the person is a franchised dealer of the same
line-make;

(2) the person's dealership is located either in the
same county as, or within 15 miles of, the dealership for which
the application for relocation is filed;

(3) the proposed relocation site is more than two
miles from the location where the dealership is currently
licensed; and

(4) the proposed relocation site is nearer to the
protesting franchised dealer than the location from which the
relocating dealership is currently licensed.

(e) An application may be filed under Occupations Code,
§2301.6521 to relocate a dealership from a location in an
affected county to a location that is either within the same
affected county or in an adjacent affected county.

(1) No dealer has standing to protest an application
filed in accordance with this subsection if the proposed
relocation site is two miles or less from the relocating
dealer's existing licensed location.
(2) No dealer has standing to protest an application filed in accordance with this subsection if the proposed relocation site is farther from the protesting dealer's licensed location than the relocating dealer's existing licensed location.

(3) If a dealership of the same line-make as the relocating dealership is located within 15 miles of the proposed relocation site, then a person has standing to protest an application to relocate filed in accordance with this subsection, if:

(A) the person is a franchised dealer of the same line-make;

(B) the person's dealership is located within 15 miles of the proposed relocation site;

(C) the proposed relocation site is more than two miles from the location where the dealership is currently licensed; and

(D) the proposed relocation site is nearer to the protesting franchised dealer than the location from which the relocating dealership is currently licensed.

(4) If no dealership of the same line-make as the relocating dealership is located within 15 miles of the proposed...
relocation site, then a person has standing to protest an
application to relocate\(\tau\) filed in accordance with this
subsection, if:

(A) the person is a franchised dealer of the same
line-make;

(B) no other dealership of the same line-make is
located nearer to the proposed relocation site;

(C) the person's dealership is located in the
same affected county as the relocating dealership is proposed to
be located;

(D) the proposed relocation site is more than two
miles from the location where the relocating dealership is
currently licensed; and

(E) the proposed relocation site is nearer to the
protesting franchised dealer than the location from which the
relocating dealership is currently licensed.

(f) If an economically impaired dealer files an application
under Occupations Code, \$2301.6522[\tau] to relocate its
dealership, then a dealer may have \(\text{may have}\) standing to protest the
application if:

(1) the dealer is franchised for a line-make that is
the same as a line-make proposed to be relocated.
(2) the proposed relocation site is more than two miles closer to the protesting dealer's dealership than the site of the economically impaired dealer's existing licensed location; and

(3) there is no other dealer located nearer to the proposed relocation site that is franchised for a line-make that is proposed to be relocated.

(g) A dealer has standing to protest an application for an extension of time that was filed by a manufacturer, distributor, or representative under Occupations Code, §2301.476(r) if:

(1) the protesting dealer is franchised for a line-make being sold or serviced from the dealership owned or controlled by a manufacturer, distributor, or representative; and

(2) the protesting dealer is located either in the same county as, or within 15 miles of, the dealership owned or controlled by the manufacturer, distributor, or representative.
SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

§215.131. Purpose and Scope. [Objective—]

This subchapter implements [The objective of this subchapter is to implement the intent of the legislature as declared in] Transportation Code, Chapter 503[7] and Occupations Code, Chapter 2301[7] by prescribing rules to regulate businesses requiring general distinguishing numbers.

§215.132. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Barrier--A material object or set of objects that separates or demarcates.

(2) Charitable organization--Has the meaning assigned by Transportation Code, §503.062(c). [An organization that is established and exists for the purpose of relieving poverty, the advancement of education, religion, or science, the promotion of health, governmental, or municipal purposes, or other purposes beneficial to the community without financial gain.]

(3) Consignment sale--The owner-authorized sale of a motor vehicle by a person other than the owner[7, under the terms of a written authorization from the owner].
[4] Dealer—Any person who is regularly and actively engaged in the business of buying, selling, or exchanging new or used motor vehicles, motorcycles, motor homes, mobility motor vehicles, house trailers, or trailers or semitrailers as defined in Transportation Code, §501.001 et seq., or Transportation Code, §502.001 et seq., at either wholesale or retail, either directly, indirectly, or by consignment.


(A) holds a general distinguishing-number issued by the department under Transportation Code, Chapter 503;

(B) holds a converter's license issued under Occupations Code, Chapter 2301;

(C) is engaged in the business of buying, selling, or exchanging mobility motor vehicles and servicing or repairing the devices installed on mobility motor vehicles at an established and permanent place of business in this state; and

(D) is certified by the manufacturer of each mobility device that the dealer installs, if the manufacturer offers that certification.

(4)(6) House trailer—A nonmotorized vehicle designed for human habitation and for carrying persons and property on its own structure and for being drawn by a

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motor vehicle. A house trailer [The term] does not include
manufactured housing. A towable recreational vehicle, [Towable
recreational vehicles] as defined by [in] Occupations Code,
§2301.002, is [are] included in the terms "house trailer" or
"travel trailer."

[(5) [(7)] License--A dealer's GDN [general
distinguishing number] assigned by the department identifying
the type of business for a specified [division for the] location
from which the person engages in business.

[(8) Mobility motor vehicle--A motor vehicle that is
designed and equipped to transport a person with a disability
and that:]

[(A) has a chassis that contains:]

[(i) a permanently lowered floor or lowered
frame, or]

[(ii) a permanently raised roof and raised
doors]

[(B) contains at least one of the following:]

[(i) an electronic or mechanical wheelchair,
scooter, or platform lift that enables a person to enter or exit
the vehicle while occupying a wheelchair or scooter;]

[(ii) an electronic or mechanical wheelchair
ramp, or]
[(iii) a system to secure a wheelchair or
scooter to allow for a person to be safely transported while
occupying the wheelchair or scooter; and]
[(C) is installed as an integral part or
permanent attachment to the motor vehicle's chassis.]
(6) Person--Has the meaning assigned by
Occupations Code, §2301.002. [Any individual, firm, partnership,
corporation, or other legal entity.]
(7) Sale--With regard to a specific vehicle, the
transfer of possession of that vehicle to a purchaser for
consideration.
(8) Temporary tag--A buyer's temporary tag,
converter's temporary tag, or dealer's temporary tag as
described under Transportation Code, Chapter 503. [A buyer tag,
converter tag, or dealer tag.]
(9) Towable recreational vehicle--Has the same
meaning as "house trailer" defined by this section. [See
definition for House Trailer in this section.]
(10) Travel Trailer--Has the same meaning as
"house trailer" defined by this section. [See definition for
House Trailer in this section.]
(11) Vehicle--Has the meaning assigned by
Transportation Code, §503.001.

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(12) VIN--Vehicle identification number.

[(14) Wholesale dealer--A licensed dealer who only
sells or exchanges vehicles with other licensed dealers.]}

§215.133. General Distinguishing Number.

(a) No person may engage in business as a dealer unless
that person has a currently valid general distinguishing number
assigned by the department [division] for each location from
which the person engages in business. If a dealer consigns more
than five vehicles in a calendar year for sale from a location
other than the location for which the dealer holds a general
distinguishing number, the dealer must also hold a general
distinguishing number for the consignment location.

(b) The provisions of subsection (a) of this section do not
apply to:

(1) a person who sells or offers for sale fewer than
five vehicles of the same type as herein described in a calendar
year and such vehicles are owned by him and registered and
titled in his name;

(2) a person who sells or offers to sell a vehicle
acquired for personal or business use if the person does not
sell or offer to sell to a retail buyer and the transaction is
not held for the purpose of avoiding the provisions of

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Transportation Code, §503.001 et seq., and this subchapter;

(3) an agency of the United States, this state, or local government;

(4) a financial institution or other secured party selling a vehicle in which it holds a security interest, in the manner provided by law for the forced sale of that vehicle;

(5) a receiver, trustee, administrator, executor, guardian, or other person appointed by or acting pursuant to the order of a court;

(6) an insurance company selling a vehicle acquired from the owner as the result of paying an insurance claim;

(7) a person selling an antique passenger car or truck that is at least 25 years old or a collector selling a special interest motor vehicle as defined in Transportation Code, §683.077, if the special interest vehicle is at least 12 years old;

(8) a licensed auctioneer who, as a bid caller, sells or offers to sell property to the highest bidder at a bona fide auction if neither legal nor equitable title passes to the auctioneer and if the auction is not held for the purpose of avoiding another provision of Transportation Code, §503.001 et seq., and this subchapter; and provided that if an auction is conducted of vehicles owned, legally or equitably, by a person...
who holds a general distinguishing number, the auction may be
conducted only at a location for which a general distinguishing
number has been issued to that person or at a location approved
by the division as provided in §215.135 of this
subchapter (relating to More than One Location); and

(9) a person who is a domiciliary of another state and
who holds a valid dealer license and bond, if applicable, issued
by an agency of that state, when the person buys a vehicle from,
sells a vehicle to, or exchanges vehicles with a person who:

(A) holds a current valid general distinguishing
number issued by the department if the transaction
is not intended to avoid the terms of Transportation Code,
§503.001 et seq.; or

(B) is a domiciliary of another state if the
person holds a valid dealer license and bond, if applicable,
issued by that state, and if the transaction is not intended to
avoid the terms of Transportation Code, §503.001 et seq.

(c) Application for a general distinguishing number shall
be on a form prescribed by the department properly
completed by the applicant showing all information requested
thereon and shall be submitted to the department
accompanied by the following:

(1) proof of a $25,000 surety bond as provided in

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§215.137 of this subchapter (relating to Surety Bond); [Security Requirements++]

(2) the fee for the general distinguishing number as prescribed by law for each type of license requested;

(3) the fee as prescribed by law for each metal dealer [metal] plate requested as prescribed by law;

(4) a copy of each assumed name certificate on file with the Office of the Secretary of State or county clerk; and

(5) a photocopy of at least one of the following documents for the owner, president, or managing partner of the dealership:

(A) current driver's license;

(B) current Department of Public Safety identification;

(C) current concealed handgun license;

(D) current passport; or

(E) current United States armed forces identification.

(d) A person who applies for a general distinguishing number and will operate as a dealer under a name other than the name of that person shall use the name under which that person is authorized to do business, as filed with the Office of the Secretary of State or county clerk, and the assumed name of such
1 legal entity shall be recorded on the application using the
2 letters "DBA."
3
4 (e) If the general distinguishing number is issued to a
5 corporation, the dealer's name and assumed name used by the
6 dealer, as on file with the Office of the Secretary of State,
7 shall be recorded on the application.
8
9 (f) A wholesale dealer licensee may buy, sell, or exchange
10 vehicles with licensed dealers. A wholesale dealer licensee
11 holder may not sell or exchange vehicles at retail.
12
13 (g) An independent mobility motor vehicle dealer shall
14 retain and produce for inspection all records relating to the
15 license requirements under Occupations Code, §2301.002(17-a) and
16 all information and records required under Transportation Code,
17 §503.0295.
18
19 (h) An application for a general distinguishing number may
20 be denied if an applicant for such license has committed any act
21 that could result in license cancellation or revocation under
22 Transportation Code, §503.001 et seq.; Occupations Code,
23 §2301.001 et seq.; or any rule or regulation of the department.
24
25 (i) Upon request by the department, the applicant shall
26 submit documents demonstrating that the applicant owns the real
27 property on which the business is situated or has a written
28 lease for the property that has a term of not less than the term
of the license.

$215.135. More than One Location.

(a) A dealer that holds a GDN [holding a general distinguishing number] for a particular type of vehicle may operate from more than one location within the limits of a city, provided each [such] location is operated by the same legal entity and meets the requirements of $215.140 of this title [subchapter], (relating to Established and Permanent Place of Business).

(b) Additional locations [which are] not located within the limits of the same city of the initial dealership are required to:

(1) obtain a new GDN; and [separate license and security]

(2) provide a new surety bond reflecting the additional location, unless the licensed location is exempt by statute from the surety requirement. [from the security requirement by statute.]

(c) A dealer that relocates from a point outside the limits of a city or relocates to a point not within the limits of the same city of the initial location is required to:

(1) obtain a new GDN; and
(2) provide a new surety bond reflecting the new address, unless the licensed location is exempt by statute from the surety requirement.

[(c) Dealerships that are relocated from a point outside the limits of a city, or relocated to a point not within the limits of the same city of the initial location are required to obtain a new license and provide new security reflecting the new address unless the location is exempt from the security requirement by statute.]

(d) A dealer shall notify the department [division] in writing within 10 days of [the] opening, closing, or relocating any licensed [relocation of any dealership] location. Each [new] location must meet and maintain the requirements of §215.140 [of this subchapter].

(e) A dealer may not commence business at any location until the department issues a license specific to that location.

§215.137. Surety Bond[Security Requirements].

(a)[(2)] The surety bond required by Transportation Code §503.033 [The bond] shall be in the legal business name in which the dealer's license will be issued and shall contain the complete physical address of each dealership location licensed under the GDN [general distinguishing number] that the surety

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bond is intended to cover.

(a) Unless exempt pursuant to subsection (d) of this section, a dealer shall maintain a $25,000 bond conditioned on the dealer's payment of all valid bank drafts drawn by the dealer for the purchase of motor vehicles and the dealer's transfer of good title to each motor vehicle the dealer offers for sale. The bond must be valid for the same period of time as the dealer's license and is subject to the following:

1. The bond shall be on a form which is prescribed by the division and approved by the attorney general and issued by a company duly authorized to do business in the state of Texas.

(b) A surety bond executed by an agent representing a bonding company or surety must be supported by an original power of attorney from the bonding company or surety.

(c) The identity of the obligee on a surety bond or a rider to a surety bond must be approved by the department. A surety bond or rider to a surety bond may be identified as:

1. a person who obtains a court judgment assessing damages and attorney's fees for an act or omission on which the bond is conditioned; or

2. unknown.
(d) A bonding company that pays any claim against a surety bond shall immediately report the payment to the department.

(e) A bonding company shall give written notice to the department 30 days prior to canceling any surety bond.

[(b) Recovery against the bond may be made by any person who obtains a court judgment assessing damages and/or attorneys fees for an act or omission on which the bond is conditioned. If the person seeking to obtain such a court judgment is a dealer, that dealer shall notify the division of the claim immediately upon filing suit on the bond.]

[(c) Payment of any judgment by the bonding company shall be immediately reported to the division in writing.]

(f) [(e)] The surety bond required by this section does [The provisions of subsection (a) of this section do] not apply to a:

(1) franchised motor vehicle dealer [who is] licensed by the department; [division;]

(2) franchised motorcycle dealer [who is] licensed by the department; [division;]

(3) franchised house trailer or travel trailer dealer licensed by the department; or

(4) trailer or semitrailer [trailer/semitrailer] dealer licensed by the department.

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(a) A metal dealer's license plate [Metal-dealer-licenser plates] shall be attached to the rear license plate holder of a vehicle in accordance with [vehicles on which such plates may be displayed pursuant to] Transportation Code, §503.061.

(b) A [Although not a requirement, a] copy of the receipt for the metal dealer's license plate issued by the department [division] should be carried in the vehicle so that the receipt [it] can be presented to law enforcement personnel upon request.

(c) [§215.138(b)] A metal dealer's license plate [Metal-dealer license plates] may not be displayed on:

(1) a laden commercial vehicle [vehicles] being operated or moved on [upon] the public streets or highways; or

(2) [§215.138(b)] the dealer's service or work vehicle, [vehicles,] except as provided by Transportation Code, §503.068(b-1).

[(1) Examples of vehicles considered as service or work vehicles for purposes of this subsection are:] [(A) a vehicle used for towing or transporting other vehicles;]

[(B) a vehicle, including a light truck, used in connection with the operation of the dealer's shops or parts department;]
[(C) a courtesy car on which a courtesy car sign is displayed;]

[(D) a rental or lease vehicle; and]

[(E) a boat trailer owned by a dealer or manufacturer that is used to transport more than one boat.] (2) A light truck is not considered to be a laden commercial vehicle when it is:

[(A) mounted with a camper unit; or]

[(B) towing a trailer for recreational purposes;]

[(3) As used in this subsection, "light truck" has the meaning assigned by Transportation Code, §541.201.]

(d) For purposes of this section, a dealer's service or work vehicle includes:

(1) a vehicle used for towing or transporting another vehicle;

(2) a vehicle, including a light truck, used in connection with the operation of the dealer's shops or parts department;

(3) a courtesy car on which a courtesy car sign is displayed;

(4) a rental or lease vehicle; and

(5) a boat trailer owned by a dealer or manufacturer that is used to transport more than one boat.
(e) As used in this section, "light truck" has the meaning assigned by Transportation Code, §541.201.

(f) For purposes of this section, a light truck is not considered a laden commercial vehicle when it is:

(1) mounted with a camper unit; or

(2) towing a trailer for recreational purposes.

(g) A metal dealer's license plate may be displayed only on the type of vehicle for which the GDN [general distinguishing number] is issued and for which a dealer is licensed to sell. A nonfranchised dealer may not display a metal dealer's license plate on a new motor vehicle. [Non-franchised dealers may not display metal dealer plates on new motor vehicles.]

(h) A metal dealer's license plate may be displayed only on a vehicle that has a valid inspection in accordance with Transportation Code, Chapter 548.

(i) A dealer shall maintain a record of each metal dealer's license plate issued to that dealer. The record must contain:

(1) the assigned metal dealer's license plate number;

(2) the year and make of the vehicle to which the metal dealer's license plate is affixed;

(3) the VIN [vehicle identification number (VIN)] of the vehicle.
the vehicle; and

(4) the name of the person in control of the vehicle.

(j) If a dealer cannot account for a metal dealer's license plate that the department issued to that dealer, the dealer must:

(1) document the metal dealer's license plate as "void" in the metal dealer's license plate record;

(2) within three days of discovering that the metal dealer's license plate is missing, report to the department in writing that the metal dealer's license plate is lost or stolen;

and

(3) if found, cease use of the metal dealer's license plate.

(k) A metal dealer's license plate is no longer valid for use after the dealer reports to the department that the metal dealer's license plate is missing.

[(e) Dealer metal plates that cannot be accounted for shall be voided in the dealer's record and reported as missing to the department within three days of the date that the discovery is made. After a plate is reported as missing, it is no longer valid for use.]

[(f) The dealer's record required under subsections (d) and (e) of this section shall be available at the dealer's location

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during normal working hours for review by a representative of the department.)

§215.139. Metal Dealer's License [Dealer] Plate Allocation.

(a) The number of metal dealer's license [dealer] plates a dealer may order for business use is [allocated] based on the type of license for which the dealer applied [for] and the number of vehicles the dealer sold during the previous year.

[New license applicants are allotted a predetermined number of metal dealer plates during the first license term.]

(b) A new license applicant is allotted a predetermined number of metal dealer's license plates for the duration of the dealer's first license term.

[(b) The maximum number of metal dealer plates issued to a new license applicant during the first license term is, unless otherwise qualified to receive more:]

(1) Franchised motor vehicle dealer—5

(2) Franchised motorcycle dealer—5

(3) Independent motor vehicle dealer—2

(4) Independent motorcycle dealer—2

(5) Franchised or independent travel trailer dealer—2

(6) Utility trailer or semi-trailer dealer—2

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[(7) Independent mobility vehicle dealer—2; and]

[(8) Wholesale dealer—1.]

(c) Unless otherwise qualified under this section, the maximum number of metal dealer's license plates the department will issue to a new license applicant during the applicant's first license term is indicated in the following table.

Figure 43 TAC §215.139(c)

(d) A dealer that submits an application to the department for a license is not subject to the initial allotment limits described in this section and may rely on that dealer's existing allocation of metal dealer's license plates if that dealer is:

(1) a franchised dealership [that has been] subject to a buy-sell agreement, regardless of a change in the entity or ownership; [or]

(2) any type of dealer that is relocating [relocates] and has been licensed by the department for a period of one year or longer; or[—]

(3) any type of dealer that is changing its business entity type and has been licensed by the department for a period of one year or longer.

[(e) A newly licensed dealership with a previous license status is not subject to the initial allotment limits described in subsection (b) of this section, and may rely on that previous 02/04/2016 Amendments/New Section]
license status to obtain dealer plates, if it is:

(e) The maximum number of metal dealer's license plates the department will issue to a vehicle dealer per license term is indicated in the following table.

Figure 43 TAC §215.139(e)

[(d) The maximum number of dealer plates issued to a motor vehicle dealer per license term is:]

[(1) Franchised motor vehicle dealer — 30]+
[(2) Franchised motorcycle dealer — 10]+
[(3) Independent motor vehicle dealer — 3]+
[(4) Independent motorcycle dealer — 3]
[(5) Franchised or independent travel trailer dealer— 3]+
[(6) Utility trailer or semi-trailer dealer— 3]
[(7) Independent mobility vehicle dealer — 3, and]
[(8) Wholesale dealer— 1.]

[(f) [(e)] A dealer may obtain more than the maximum number of metal dealer's license plates provided by [plates set out in subsections (b) or (d) of] this section[.1] by submitting to the department proof of sales for the previous 12-month period that justifies additional allocation.

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(1) The number of additional metal dealer's license plates the department will issue to a dealer that demonstrates a need through proof of sales is indicated in the following table.

Figure 43 TAC §215.139(f)(1)

[(1) The dealer may receive the following additional plates:]

[(A) Wholesale dealers—1]\n
[(B) Dealers selling fewer than 50 vehicles—1]\n
[(C) Dealers selling 50 to 99 vehicles—2]\n
[(D) Dealers selling 100 to 200 vehicles—5, or]  

[(E) Dealers selling more than 200 vehicles may receive any number of dealer plates at the dealer's discretion.]

(2) For purposes of this subsection and subsection (f) of this section, proof of sales for the previous 12-month period may consist of a copy of the most recent vehicle inventory tax declaration [recently filed Vehicle Inventory Tax Declaration] or monthly statements [duly] filed with the [proper] taxing authority in the county of the dealer's licensed [dealership's] location. Each copy must be stamped as received by the taxing [tax] authority. A [Any] franchised dealer's [renewal] license renewal application that indicates sales of more than 200 units is considered to be proof of sales of more than 200 units and no additional proof is required.  

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(3) The department may not issue more than two metal dealer's license plates to a wholesale motor vehicle dealer. For purposes of this section, a wholesale motor vehicle dealer's proof of sales may be demonstrated to the department by submitting:

(A) evidence of the wholesale motor vehicle dealer's sales for the previous 12-month period, if the wholesale motor vehicle dealer has been licensed during those 12 months; or

(B) other documentation approved by the department demonstrating the wholesale motor vehicle dealer's transactions.

(g) [4(f)] The director may waive the metal dealer's license [dealer] plate issuance restrictions [in accordance with this subsection] if the waiver is essential for the continuation of the business. The director will determine [base the determination of] the number of metal dealer's license [dealer] plates the department will issue based [dealer will receive] on the dealer's past sales, dealer's inventory, and any other factor [factors that] the director determines pertinent.

(1) A request for a waiver must be submitted to the director in writing and specifically state why the additional plate is [plates are] necessary for the continuation of the 02/04/2016 Amendments/New Section.
1 applicant's business.
2
3 (2) A request for a waiver must be accompanied by
4 proof of the dealer's sales for the previous 12-month period,
5 [year] if applicable.
6
7 (3) A wholesale motor vehicle dealer may not apply for
8 a waiver of the metal dealer's license [dealer] plate issuance
9 restrictions.
10
11 (4) A waiver granted by the director under this
12 section [subsection] for a specific number of metal dealer's
13 license plates is valid for four years.
14
15 (h) This section does not apply to a personalized prestige
16 dealer's license plate issued in accordance with Transportation
17 Code, §503.0615.
18
19 §215.140. Established and Permanent Place of Business.
20 A dealer must meet the following requirements at each licensed
21 location and [must] maintain the [following] requirements during
22 the [entire] term of the license.
23
24 (1) Business hours for retail dealers.
25
26 (A) A retail dealer's office [facility] shall be
27 open at least four days per week for at least four consecutive
28 hours per day.
29
30 (B) The retail dealer's business hours for each
day of the week must be posted at the main entrance of the 
retail dealer's office that is accessible to the public. The 
owner or a bona fide employee of the retail dealer shall be at 
the retail dealer's licensed location during the posted business 
hours for the purposes [purpose] of buying, selling, exchanging, 
or leasing vehicles. If the owner or a bona fide employee is not 
available to conduct business during the retail dealer's posted 
business hours due to special circumstances or emergencies, a 
separate sign must be posted indicating the date and time the 
retail dealer will resume operations. Regardless of the retail 
dealer's business hours, the retail dealer's telephone must be 
answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide 
employee, answering service, or answering machine.

(2) Business hours for wholesale motor vehicle 
dealers. A dealer that [who] holds only a wholesale motor 
vehicle dealer's license must post its business hours at the 
main entrance of the wholesale motor vehicle dealer's office. A 
wholesale motor vehicle dealer shall be at the wholesale motor 
vehicle dealer's licensed location [for] at least two weekdays 
per week for at least two consecutive hours per day. Regardless 
of the wholesale motor vehicle dealer's business hours, the 
wholesale motor vehicle dealer's telephone must be answered from 
8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee,
(3) Business sign requirements for retail dealers. A retail dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the retail dealer's business name or assumed name substantially similar to the name reflected on the retail dealer's license[7] under which the retail dealer conducts business. The sign must be permanently mounted at the address listed on the application for the retail dealer's [dealer] license. A retail dealer may use a temporary sign or banner if that retail [the] dealer can show proof that a sign [is on order] that meets the requirements of [set out in] this paragraph has been ordered.

(4) Business sign requirements for wholesale motor vehicle dealers. A wholesale motor vehicle dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the wholesale motor vehicle dealer's business name or assumed name substantially similar to the name reflected on the wholesale motor vehicle dealer's license[7] under which the wholesale motor vehicle dealer conducts business. The sign must be permanently mounted on the business property and shall be on the main door to the wholesale motor vehicle dealer's office or on the outside of the building that houses [housing] the wholesale motor vehicle dealer's office. If the wholesale
motor vehicle dealership is located in an office building with
one or more other businesses and an outside sign is not
permitted by the landlord, a business sign permanently mounted
on or beside the main door to the wholesale motor vehicle
dealer's office with letters at least two inches in height is
acceptable. A wholesale motor vehicle dealer may use a temporary
sign or banner if the wholesale motor vehicle dealer can show
proof that a sign [is on order] that meets the requirements of
(set out in] this paragraph has been ordered.

(5) Office structure for a retail dealer and a
wholesale motor vehicle dealer. [retail and wholesale dealers.]

(A) A dealer's office [The office of a retail or
wholesale dealer] must be located in a building[7] with
connecting exterior walls on all sides.

(B) A dealer's office must comply with all
applicable local zoning ordinances and deed restrictions.

(C) A dealer's office may not be located within a
residence, apartment [house], hotel, motel, or rooming house.

(D) The physical address of the dealer's office
must be recognized by the U.S. Postal Service or capable of
receiving U.S. mail. The department will not mail a license or a
metal dealer's license plate to an out of state address.

[Licensees and metal dealer plates will not be mailed to any out-
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of state address.]

(E) A portable-type office structure may qualify as an office only if the structure meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(6) Required office equipment for a retail dealer and a wholesale motor vehicle dealer [dealers]. At a minimum, a dealer's [the] office must be equipped with:

(A) a desk;

(B) two chairs;

(C) Internet access; and

(D) a working telephone number listed in the business name or assumed name under which the dealer conducts [does] business.

(7) Number of retail dealers in one office. Not more than four retail dealers may be located in the same business structure.

(8) Number of wholesale motor vehicle dealers in one office. Not more than eight wholesale motor vehicle dealers may be located in the same business structure.

(9) Office sharing prohibition for retail dealers and wholesale motor vehicle dealers. [Wholesale and retail dealers office sharing prohibition.] Unless otherwise authorized by the
Transportation Code, a retail [motor vehicle] dealer and a wholesale motor vehicle dealer[, either of which is] licensed after September 1, 1999, may not be located in the same business structure.

(10) Dealer housed with other business.

(A) If a person conducts business as a dealer in conjunction with another business owned by the same person and under the same name as the other business, the same telephone number may be used for both businesses. If the name of the dealer differs from the name [that] of the other business, a separate telephone listing and a separate sign for each business is required.

(B) A person may conduct business as a dealer in conjunction with another business not owned by that person only if the dealer owns the property on which business is conducted or has a separate lease agreement from the owner of that property that meets [meeting] the requirements of [paragraph (13)] this section. The same telephone number may not be used by both businesses. The dealer must have separate business signs, telephone listings, and office equipment required under this section.

(11) Display area requirements.

(A) A wholesale motor vehicle dealer is not
required to have display space at the wholesale motor vehicle
dealer's business premises.

(B) A retail dealer must have an area designated
as display space for the retail dealer's inventory. A retail
dealer's designated display area must comply with the following
requirements. [in accordance with this subsection.]

(i) [A+] The display area must be located at
the retail dealer's business address or contiguous with the
retail dealer's address. A noncontiguous [non-contiguous]
storage lot is permissible only if there is no public access and
no sales activity occurs at the storage lot. A sign stating the
retail dealer's name, telephone number, and the fact the
property is a storage lot is permissible.

(ii) [B+] The dealer's display area must
be of sufficient size to display at least five vehicles of the
type for which the CDN [general distinguishing number] is
issued. Those spaces must be reserved exclusively for the retail
dealer's inventory and may not be shared or intermingled with
another business or a public parking area, a driveway to the
office, or another dealer's display area.

(iii) [C+] The display area may not be on a
public easement, right-of-way, or driveway unless the governing
body having jurisdiction of the easement, right-of-way, or
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driveway expressly consents in writing to use as a display area.

If the easement, right-of-way, or driveway is a part of the
state highway system, use as a display area may only be
authorized by a lease agreement.

(iv) If the retail dealer shares a
display or parking area with another business, including another
dealer, the dealer's vehicle inventory [If the display area is
in conjunction with another dealership or another business that
is not related to the sale or operation of motor vehicles, the
display area for the dealer's inventory] must be separated from
the other business's display or [any other business's or
dealer's] parking area by a material object or barrier
[barricade] that cannot be readily removed. [moved by an
individual]

(v) The display area must be adequately
illuminated if the retail dealer is open at night [after
sundown] so that a vehicle [vehicles] for sale can be properly
inspected by a potential buyer. [any prospective customer.]

(vi) The display area may be located
inside a building.

(12) Dealers holding a license issued under
Occupations Code, Chapter 2302. [Dealer with salvage dealer
license] If a dealer also holds a license issued under
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Occupations Code, Chapter 2302, each salvage motor [salvage
dealer license, each salvage] vehicle that is offered for sale
on the premises of the dealer's display area must be clearly and
conspicuously marked with a sign informing a potential buyer
[that informs the potential buyers] that the vehicle is a
salvage motor vehicle. This requirement does not apply to a
licensed salvage pool operator.

(13) Lease requirements. If the premises from which a
dealer conducts business, including any display area, is not
owned by the dealer, the dealer must maintain a lease that is
continuous during the period of time [with the period] for which
the dealer's license will be issued. The [That] lease agreement
must be on a properly executed form containing at a minimum:

(A) the name of the landlord as the lessor of the
premises and the name of the dealer as the tenant or lessee of
the premises; [names of the lessor and lessee;]

(B) the period of time for which the lease is
valid; [and]

(C) the street address or legal description of
the property, provided that if only a legal description of the
property is included, [provided;] the applicant must attach a
statement that the property description in the lease agreement
is the street address identified on the application; and[—]
(D) the signature of the landlord as the lessor
and the signature of the dealer as the tenant or lessee.

(14) Dealer must display license. A dealer must
display the dealer's license issued by the department
at all times in a manner that makes the license easily readable
by the public and in a conspicuous place at each place of
business for which the dealer's license is issued. If the
dealer's license applies to more than one location, a copy of
the original license may be displayed in each supplemental
location.


(a) The board or department may:

(1) deny an application;
(2) revoke a license;
(3) suspend a license; and
(4) assess a civil penalty or other action against a
license applicant, a license holder, or a person engaged in
business for which a license is required.

[(a) Revocation/ Denial. The Board may deny, revoke, or
suspend a dealer's license (general distinguishing number) or
assess civil penalties against any person if that person:]
subsection (a) of this section if a license applicant, a license
holder, or a person engaged in business for which a license is
required:

(1) fails to maintain a good and sufficient bond in
the amount of $25,000 if required;

(2) fails to maintain records required under this
chapter; [an established and permanent place of business
conforming to the regulations pertaining to office, sign, and
display space requirements;]

(3) refuses [to permit] or fails to comply with a
request by a representative of the department to examine and
copy during the license holder's business hours at the licensed
location: [the]

(A) sales records required to be maintained by
[kept under] §215.144 of this title (relating to Records);
[subchapter (relating to Record of Sales and Inventory) and]

(B) ownership papers for a vehicle [vehicles]
owned by that dealer or under that dealer's control;[r] and

(C) evidence of ownership or a current lease
agreement for the property on which the business is located;
[lease rights on the property upon which the dealer's business
is located, during posted working hours or through a request
made by the department pursuant to these rules;]

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(4) refuses or fails to timely comply with a request for records made by a representative of the department; 

(5) holds a wholesale motor vehicle dealer's license and, without notifying the division and meeting the vehicle display space requirements of §215.140 of this subchapter, is found to be selling or offering to sell a vehicle to someone other than a licensed dealer, unless authorized by statute;

(A) fails to meet the requirements of §215.140 of this title (relating to Established and Permanent Place of Business); or

(B) sells or offers to sell a motor vehicle to a person other than a licensed dealer;

(6) sells or offers to sell a type of vehicle that the person is not licensed to sell;

(7) fails to notify the department [division] of a change of the license holder's physical address, [physical or] mailing address, [and/or] telephone number, or email address within 10 days of the [after such] change;

(8) fails to notify the department [division] of a license holder's [dealer's] name change or ownership change within 10 days of the [after such] change;

(9) except as provided by law, issues more than 02/04/2016 Amendments/New Section
one buyer's temporary tag for the purpose of extending the
purchaser's operating privileges for more than 60 days;
(10) fails to remove a license plate or
registration insignia [license plates as required by law] from a
vehicle that is displayed for sale;
(11) misuses a metal dealer's license plate or a temporary tag;
(12) fails to display a metal dealer's license plate or temporary tag, as required by law; [plates or
tags in a manner conforming to the regulations pertaining to the
display of such plates and tags;]
[(12) fails to satisfy the notification requirements
of §215.144 of this subchapter;]
(13) holds open a title [titles] or fails to take
assignment of a certificate [all certificates] of title,
manufacturer's certificate, [certificates,] or other basic
evidence of ownership for a vehicle [vehicles] acquired by the
dealer, or fails to assign the certificate of title,
manufacturer's certificate, or other basic evidence of ownership
for a vehicle sold; [vehicles sold (All certificates of title,
manufacturer's certificates, or other basic evidence of
ownership for vehicles owned by a dealer must be properly
executed showing transfer of ownership into the name of the
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dealer;

(14) fails to remain regularly and actively engaged in the business of buying, selling, or exchanging vehicles of the type for which the GDN [general distinguishing number] is issued by the department;

(15) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 503 and 1000 - 1005; a board order or rule; or a [any of the provisions the Codes, or any rule or] regulation of the department relating to the sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under [set out in] Subchapter H of this chapter (relating to Advertising);

(16) is convicted of an offense that directly relates to the duties or responsibilities of the occupation;

(17) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(18)[(16)] has not assigned at least five vehicles in the prior 12 months, provided the dealer has been licensed more than 12 months;

(19)[(17)] files a false or forged [title or]

(A) title document, including an affidavit making application for a certified copy of a title; or

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(B) tax document, including a sales tax statement or affidavit; [application for certified copy of a title;]

(20)[(18)] uses or allows use of that dealer's license or location for the purpose of avoiding a provision of Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1000 - 1005; [the provisions of the dealer law] or other laws;

(21)[(19)] omits information or makes a material misrepresentation in any application or other documentation filed with the department; [division;]

(22)[(20)] fails to remit payment as ordered for a civil penalty assessed by the board or department; [for civil penalties assessed by the Board;]

(23)[(21)] sells a new motor vehicle [vehicles]

without a franchised dealer's license issued by the department;

[division;]

(24)[(22)] utilizes a temporary tag that fails to meet the requirements of [specifications as cited in] §215.153 of this title [subchapter] (relating to Specifications for All Temporary Tags); or

(25)[(23)] violates any state or federal law or regulation relating to the sale of a motor vehicle.

{(b) Civil penalties. The Board may assess a civil penalty
of not less than $50 nor more than $1,000 against a person that
is found to have engaged in conduct described in subsection (a)
of this section, and in determining the amount of any such
penalty may consider the relevant circumstances, including but
not limited to the factors enumerated in Occupations Code,
$2301.801(b).]

[(c) Warning letter. In lieu of imposing sanctions under
subsection (a) or (b) of this section, the division may issue a
warning letter to a person notifying that person of the nature
of the violation, and specifying the date by which corrective
action is to be completed and full compliance is to be met,
provided, however, that the Board may not issue a warning letter
in more than three subsequent violations of the same or similar
nature by that person in the same calendar year.]
written record of each [records relating to a] vehicle purchase, vehicle sale, [or sale] and any adaptive work performed on each [the] vehicle for a minimum period of 36 months after the date the adaptive work is performed on the vehicle.

(c) Location of records. A dealer's record [Records] reflecting purchases and sales for at least the preceding 13 months must be maintained at the dealer's licensed location. A dealer's record [location. Records] for prior time periods may be kept off-site [at a location within the same county].

(d) Request for records. Within 15 days of [Upon] receipt of a request sent by mail or electronic document transfer from a representative of the department, [the division] a dealer must deliver a copy of the [produce copies of] specified records to the address listed in the request [within 15 days. If a dealer has a concern about the origin of a records request, the dealer may verify that request with the division prior to submitting its records].

(e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must contain: [As used in this subsection, a complete record of vehicle purchases and sales shall contain the following information or documents:]

   (1) the date of the purchase;
   (2) the date of the sale;
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(3) the **VIN**; [vehicle identification number]

(4) the name and address of the person selling the **vehicle** to the dealer;

(5) the name and address of the person purchasing the **vehicle** from the dealer;

(6) the name and address of the consignor [selling **dealer**] if the **vehicle** is offered for sale by consignment;

(7) except for [in] a purchase or sale where the **Tax Code** does not require payment of motor vehicle sales tax, [by a wholesale dealer,] a copy of the receipt, titled "Tax [Tax] Collector's Receipt for Texas Title Application/Registration/Motor Vehicle Tax" [Tax, Form 31];

(8) a copy of [copies of any and] all documents, forms, and agreements applicable to a particular sale, including a copy of: [including, but not limited to title applications, work-up sheets, Manufacturer's Certificates of Origin, titles or photocopies of the front and back of titles, factory invoices, sales contracts, retail installment agreements, buyer's orders, bills of sale, waivers, or other agreements between the seller and purchaser;]

(A) the title application;

(B) the work-up sheet;

(C) the front and back of manufacturer's

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certificate of origin or manufacturer's statement of
origin, unless the title is obtained through the electronic title
system;

(D) the front and back of the title, unless the
title is obtained through the electronic title system;

(E) the factory invoice;

(F) the sales contract;

(G) the retail installment agreement;

(H) the buyer's order;

(I) the bill of sale;

(J) any waiver;

(K) any other agreement between the seller and
purchaser; or

(L) Form VTR-136, relating to County of Title
Issuance, completed and signed by the buyer;

(9) the original manufacturer's certificate of origin,
original manufacturer's statement of origin, or original title
for motor vehicles offered for sale by a dealer, and a properly
stamped original manufacturer's certificate of origin, original
manufacturer's statement of origin, or original title for motor
vehicles sold by a dealer if the title transaction is entered
into the electronic system by the dealer;

(10) the dealer's monthly Motor Vehicle Seller
Financed Sales Returns, if any; and

(11) if the vehicle sold is a motor home or a
towable recreational vehicle[7] subject to inspection under
Transportation Code, Chapter 548, a copy of the written notice
provided to the buyer at the time of the sale, [sale] notifying
the buyer that the vehicle is subject to inspection
requirements.

(f) Title assignments. [All certificates of title,
manufacturer's certificates, or other evidence of ownership for
vehicles offered for sale or which have been acquired by a
dealer must be properly assigned into the dealer's name.]

(1) For each vehicle a dealer acquires or offers for
sale, the dealer must properly take assignment in the dealer's
name of any:

(A) title;

(B) manufacturer's statement of origin;

(C) manufacturer's certificate of origin; or

(D) other evidence of ownership.

(2) A dealer must apply in the name of the purchaser
of a [motor] vehicle for the registration of the [motor] vehicle
with the appropriate county tax assessor-collector as selected
by the purchaser.

(3) To comply [To be in compliance] with

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Transportation Code, §501.0234(f), a registration is [and]
considered filed within a reasonable time if the registration is
filed within. [A registration filed in Texas must be filed
within]

(A) 20 working days of the date of sale of the
vehicle for a vehicle registered in Texas; or [For a
transaction that is dealer-financed, a registration filed in
Texas within]
(B) 45 days of the date of sale of the vehicle
for a dealer-financed transaction involving a vehicle that is
registered in Texas. [will be considered filed within a
reasonable time.]
(4) The dealer is required to [shall] provide to the
purchaser the receipt for the registration application.
(5) The dealer is required to [and] maintain a copy of
the receipt for the registration application in the dealer's
sales file.
(g) Out of state sales. For [Out of state sales. When] a
sales transaction involving [involves] a vehicle to be
transferred out of state, the dealer must: [r]
(1) within 20 working days of the date of sale, either
file the application for certificate of title on behalf of [for]
the purchaser or deliver the properly assigned evidence of
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1 ownership to the purchaser; and[

2 (2) maintain in the dealer's record at the dealer's
3 licensed location [In such instance,] a photocopy of the
4 completed sales tax exemption form for out of state [out-of-
5 state] sales approved by the Texas Comptroller of Public
6 Accounts [shall be maintained on file at the dealer's business
7 location].

8 (h) Consignment sales. A dealer offering a vehicle for sale
9 by consignment shall have a written consignment agreement [for
10 the vehicle] or a power of attorney for [covering] the vehicle,
11 and shall, after the sale of the vehicle, take assignment of the
12 vehicle in the dealer's name and, pursuant to subsection (f),
13 apply in the name of the purchaser for transfer of title and
14 registration, if the vehicle is to be registered, with the
15 appropriate county tax assessor-collector as selected by the
16 purchaser. The dealer must, for a minimum of 48 months, [and
17 shall] maintain a record of each [such] vehicle offered for sale
18 by consignment, including the VIN and the name of the owner of
19 the vehicle offered for sale by consignment. [by vehicle
20 identification number and owner of each such vehicle handled on
21 consignment for a minimum of 48 months.]

22 (i) Public motor vehicle auctions.

23 (1) A GDN holder that [general distinguishing number

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1. [holder who] acts as a public motor vehicle auction must comply
2. with [the requirements relating to consignment sales as set out
3. in] subsection (h) of this section.
4. (2) A public motor vehicle auction:
5. (A) is not required to take assignment of title
6. of a vehicle [vehicles] it offers for sale;
7. (B) must take assignment of title of a vehicle
8. from a consignor prior to making application for title on behalf
9. of the buyer; and
10. (C) [3] A public motor vehicle auction must make
11. application for title on behalf of the purchaser and remit motor
12. vehicle sales tax within 20 working days of the sale of the
14. (3) A GDN holder may not sell another GDN holder's
15. vehicle at a public motor vehicle auction.
16. (j) Wholesale motor vehicle auction records. A wholesale
17. motor vehicle auction license holder must maintain, for a
18. minimum of 48 months, [auction must keep] a complete record of
19. each vehicle purchase and sale [all vehicle purchases and sales]
20. occurring through the wholesale motor vehicle auction. The
21. wholesale motor vehicle auction license holder shall make the
22. record [auction for a minimum period of 48 months and such
23. records shall be made] available for inspection and copying by a

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representative of the department during business hours.

(1) A wholesale motor vehicle auction license holder must maintain at the licensed location a record reflecting each purchase and sale [Records reflecting purchases and sales] for at least the preceding 24 months [must be maintained at the licensed location]. Records for prior time periods may be kept off-site [at a location within the same county].

(2) Within 15 days of [upon] receipt of a request sent by mail[7] or by electronic document transfer from a representative of the department, a wholesale motor vehicle auction license holder must deliver a copy of the [auction must submit copies of] specified records to the address listed in the request [within 15 days].

(3) A wholesale motor vehicle auction license holder's complete record of each vehicle purchase and sale shall, at a minimum, contain: [The records required to be kept by a wholesale auction shall at a minimum provide the following information:]

(A) the date of sale;

(B) the VIN; [vehicle identification number;]

(C) the name and address of the person selling the vehicle;

(D) the name and address of the person purchasing
the vehicle;

(E) the dealer license number of both the selling dealer and the purchasing dealer, [seller and buyer] unless either is exempt from holding a license;

(F) all information necessary to comply with the Truth in Mileage Act;

(G) auction access documents, including the written authorization and revocation [cancellation] of authorization for an agent or employee, in accordance with [agents, employees, or representatives required by] §215.148 of this title [subchapter] (relating to Dealer Agents);

(H) invoices, bills of sale, checks, drafts, or other documents that identify the vehicle, the parties, or the purchase price;

(I) any information regarding the prior status of the vehicle such as the Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

(J) a copy [copies] of any written authorization [authorizations] allowing an agent of a dealer to enter the auction.

(k) Electronic records. A license holder may maintain a record in an electronic format if the license holder can print the record at the licensed location upon request by a 02/04/2016 Amendments/New Section
representative of the department. A license holder does not have
to maintain a copy of a vehicle title if the title is submitted
through the electronic title system. [Any records required to be
kept by a licensee may be kept in an electronic format, if the
electronic records can be printed at the licensed location upon
request by a representative of the department. Original hard
copy titles or photocopies of the front and back of titles of
vehicles in a dealer's inventory shall be kept in a secure
location at the licensed location or within the same county as
the licensed location.]


(a) A dealer's name change requires [shall require] a new
bond or a rider to the existing bond reflecting the new dealer
name, unless the dealer is not otherwise required to purchase a
bond. [The dealer may retain the same general distinguishing
number.]

(b) A dealer shall notify the department [division] in
writing within 10 days of a [if there is any] change of
ownership. A licensed dealer that [who] proposes to sell or
[and/or] assign to another any interest in the licensed entity,
whether a corporation or otherwise, and provided [see 16.10 and]
the physical location of the licensed entity remains the same,
shall notify the department [division] in writing within 10
ten days of the change by filing an application to amend the
license. If the sale or assignment of any portion of the
business results in a change of entity, then the new entity must
apply for and obtain a new license. A publicly held corporation
[Publicly held corporations need] only needs to inform the
department [division] of a change in ownership if one person or
entity acquires a 10% [10 percent] or greater interest in the
licensed entity. [licensee]

(c) Upon the death of a dealer of a dealership [If a
dealership is] operated as a sole proprietorship [and the sole
proprietor dies], either the surviving spouse of the deceased
dealer[r] or other individual deemed qualified by the department
[division] shall submit to the department [division] a bond
rider adding the name of the surviving spouse or other
qualifying person [his or her name] to the bond for the
remainder of the bond and license term. The surviving spouse or
other qualifying person [That person] may continue dealership
operations under the current dealer license until the end of the
license term. [its expiration. In the event the qualifying
individual is a surviving spouse, he or she may change the
ownership of the dealership upon renewal of the license without
applying for a new general distinguishing number by submitting
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additional information regarding ownership, business background, and financial responsibility as required for a new application.]

(d) For purposes of subsection (c) of this section, if the
qualifying person is the sole proprietor's surviving spouse,
then the surviving spouse may change the ownership of the
dealership at the time the license is renewed without applying
for a new GDN. At the time the renewal application is filed, the
sole proprietor's surviving spouse is required to submit to the
department:

(1) an application to amend the business entity;
(2) a copy of the sole proprietor's certificate of
death, naming the surviving spouse;
(3) the required ownership information; and
(4) a bond in the name of the surviving spouse.

(e) For purposes of subsection (c) of this section, if the
qualifying person is not the surviving spouse, then the
qualifying person may operate the sole proprietorship business
during the term of the license. The qualifying person must file
with the department:

(1) an application to amend the business entity,
identifying the qualifying person as the manager;
(2) an ownership information form, indicating that the
qualifying person has no ownership interest in the business; and
(3) a bond rider adding the individual's name to the existing bond.

(f) For purposes of subsection (c) of this section, if the qualifying person is not the surviving spouse, then at the time the license is due to be renewed, the qualifying person must file with the department an application for a new GDN.

(g) A determination made under this section does not impact a decision made by the board under Occupations Code, §2301.462, Succession Following Death of Dealer.

$215.146. Metal Converter's License Plates.

(a) A metal [Metal] converter's license plate [plates] shall be attached to the rear license plate holder of a vehicle in accordance with [vehicles on which the plates may be displayed pursuant to] Transportation Code, §503.0618.

[(b) Metal converter's license plates tags may be displayed only on the type of vehicle that the converter is engaged in the business of assembling or modifying.]

[(c) When an unregistered new motor vehicle is sold to a converter, the selling dealer shall remove the dealer's temporary tag. The selling dealer may attach a buyer's temporary tag to that vehicle or the purchasing converter may display a converter's temporary tag or metal converter plate on that 02/04/2016 Amendments/New Section
vehicle.)

(b) [(d)] A converter shall maintain a record of each metal converter's license plate [converter metal plate] issued to that converter. The record of each metal converter's license plate issued must contain: [that contains:]

(1) the assigned metal converter's license plate number;

(2) the year and make of the vehicle to which the metal converter's license plate is affixed;

(3) the VIN [vehicle identification number] of the vehicle [VIN]; and

(4) the name of the person in control of the vehicle.

(c) If a converter cannot account for a metal converter's license plate that the department issued to the converter, the converter must:

(1) document the metal converter's license plate as "void" in the converter's metal license plate record;

(2) within three days of discovering that the plate is missing, report to the department in writing that the metal converter's license plate is lost or stolen; and

(3) if found, cease use of the metal converter's license plate.

(d) A metal converter's license plate is no longer valid
for use after the converter reports to the department that the
plate is missing.

(e) A metal converter's license plate record shall be made
available for inspection and copying by the department at the
converter's licensed location during the converter's posted
business hours.

[(e) Converter-metal plates that cannot be accounted for
shall be voided in the converter's dealer's record and reported
as missing to the department within three days of the date that
the discovery is made. After a plate is reported as missing it
is no longer valid.]

[(f) The converter's record, required under subsections (d)
and (e) of this section, shall be available at the converter's
location during normal working hours for review by a
representative of the department.]

$215.147. Export Sales.

(a) Before selling a motor vehicle for export from the
United States to another country, a dealer must obtain a legible
photocopy of the buyer's government-issued photo identification
document. The photo identification document must be issued by
the jurisdiction where the buyer resides and be [may-consist
of]:

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1 (1) a passport;

2 (2) a driver's license;

3 (3) a concealed handgun license;

4 [(3) a consular identity document,]

5 (4) a national identification certificate or identity

6 document; or

7 (5) other identification document containing the:

8 [issued by the jurisdiction where the buyer resides that is able

9 to be verified by law enforcement and includes the]

10 (A) name of the issuing jurisdiction;[τ—the]

11 (B) buyer's full name;[τ]

12 (C) buyer's foreign address;[τ]

13 (D) buyer's date of birth;[τ]

14 (E) buyer's photograph;[τ] and

15 (F) buyer's signature.

16 (b) A license holder that sells a vehicle for export from

17 the United States shall place a stamp on the title that includes

18 the words "For Export Only" and includes the license holder's

19 GDN. The stamp must be legible, in black ink, at least two

20 inches wide, and placed on the:

21 (1) back of the title in all unused dealer

22 reassignment spaces; and

23 (2) front of the title in a manner that does not

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1 obscure any names, dates, mileage statements, or other
2 information printed on the title.
3 [(b) All licensees that sell a vehicle for export from the
4 United States shall stamp in black ink on the back of the title
5 in all unused dealer reassignment spaces the words "For Export
6 Only" and their General Distinguishing Number. The licensee
7 shall also place the stamp on the front of the title in a manner
8 that does not obscure any names, dates, mileage statements or
9 other information printed on the title. The stamp must be at
10 least two inches wide, and all text and the license number must
11 be clearly legible.]
12 (c) In addition to the records required to be maintained by
13 §215.144 of this title (relating to Records), a license hold
14 er shall maintain, for each motor vehicle sold for export, a sales
15 file record. The sales file record shall be made available for
16 inspection and copying upon request by the department. The sales
17 file record of each vehicle sold for export shall contain:
18 [(§215.144(d) and (i) of this subchapter (relating to Record of
19 Sales and Inventory), a licensee shall maintain the following
20 records in the sales file for each vehicle sold for export and
21 shall make those records available upon request by a
22 representative of the department:]
23 (1) a [A] completed copy of the Texas Motor Vehicle

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1 Sales Tax Exemption Certificate for Vehicles Taken Out of State [for each vehicle sold], indicating that the vehicle has been purchased for export to a foreign country;

(2) a [A] copy of the front and back of the title of [to] the vehicle, showing the "For Export Only" stamp and the GDN of the license holder; and [General Distinguishing Number of the auction or dealer,]

(3) A legible copy of each buyer's photo identification document; and]

(3)[(4)] if [if] applicable, an Export-only Sales Record Form, listing each motor vehicle sold for export only.

(d) A dealer, at the time of sale of a vehicle for export, shall:

(1) enter the information required by Transportation Code, §503.061 in the temporary tag database;

(2) designate the sale as "For Export Only"; and

(3) issue a buyer's temporary tag, in accordance with Transportation Code, §503.063. [temporary buyer's tag as required by Transportation Code, §503.063 after entering the information in the database as required by Transportation Code, §503.061, and report the sale as for export.]


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(a) A dealer must provide written authorization to each person with whom the dealer's agent or employee will conduct business on behalf of the dealer, including to a person that:

(1) buys and sells motor vehicles for resale; or

(2) operates a licensed auction.

(b) If a dealer's agent or employee that conducts business on behalf of the dealer commits an act or omission that would be cause for denial, revocation, or suspension of a license in accordance with Occupations Code, Chapter 2301, the board may:

(1) deny an application for a license; or

(2) revoke or suspend a license.

(c) The board may take action described in subsection (b) of this section after notice and an opportunity for hearing, in accordance with Occupations Code, Chapter 2301.

(d) A dealer's authorization to an agent or employee shall:

(1) be in writing;

(2) be signed by the dealer principal or person in charge of daily activities of the dealership;

(3) include the agent's or employee's name, current mailing address, and telephone number;

(4) include the dealer's business name, address, and dealer license number or numbers;

(5) expressly authorize buying or selling by the
specified agent or employee;

(6) state that the dealer is liable for any act or omission regarding a duty or obligation of the dealer that is caused by that agent or employee, including any financial considerations to be paid for the vehicle;

(7) state that the dealer's authorization remains in effect until the recipient of the written authorization is notified in writing of the revocation of the authority; and

(8) be maintained as a required dealer's record and made available upon request by a representative of the department, in accordance with the requirements of §215.144 of this title (relating to Records).

[(a) In regard to the duties and obligations of a dealer, a dealer is responsible for the acts and omissions of any agent, representative, or employee if that dealer has given authority to any person for that agent, representative, or employee to act on the behalf of the dealer. This section is not to be construed in any manner to allow retail sales by any dealer agent or representative. The term "employee" used in this section includes only those persons paid by the licensee and reported on the federal form W-2, Wage and Tax Statement.]

[(b) A dealer must provide written authorization to any person buying or selling motor vehicles for resale or operating 02/04/2016 Amendments/New Section]
a licensed auction for the sale of motor vehicles for resale
with which an agent, representative, or employee will be
conducting business or acting on the dealer's behalf.]

[(1) Once a dealer has given written authorization for
an agent, representative, or employee to buy and sell motor
vehicles for resale for that dealer, the dealer shall be liable
for any acts or omissions regarding duties and obligations of
dealers caused by that agent, representative, or employee unless
and until either the earlier of written notification of
revocation of the agent's, representative's or employee's
authority or revocation of the dealer's license.]

[(2) Written authorization shall be a letter on the
dealership letterhead of the dealer authorizing buying or
selling, or on a form approved by the director, and stating that
the dealer is liable for any acts or omissions regarding duties
and obligations of dealers, caused by that agent,
representative, or employee including any financial
considerations to be paid for the vehicle unless and until the
recipient is notified in writing of the revocation of the
authority. The letter or form shall be signed by the dealer
principal or person in charge of daily activities of the
dealership.]

[(3) The written authorization shall include the
employee, agent or representative's name; current mailing
address; phone number; the business name, address, and license
number of the dealer with whom the employee or agent is
associated. The written authorization is a record that must be
kept as all other records set out in §215.144 of this subchapter
(relating to Record of Sales and Inventory) and shall be made
available to a division representative upon request.

(e)(e) A license holder, including a wholesale motor
vehicle auction license holder that [Any licensee, including
wholesale auctions who act on behalf of others, who] buys and
sells vehicles on a wholesale basis, including by sealed bid, is
required to verify the authority of any person claiming to be an
agent or employee of a licensed dealer who purports to be buying
or selling a motor vehicle: [either an employee, agent or
representative who represents they are buying or selling motor
vehicles]

   (1) on behalf of a licensed dealer; or[

   (2) under the written authority of a licensed dealer.

(f)(f) A title to a vehicle bought by an agent or
employee [Titles to vehicles bought by an employee, agent or
representative] of a dealer shall be:

   (1) reassigned to the dealer by the seller or by the

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(2) shall not be delivered to the agent or employee, but delivered only to the dealer [\textit{the dealer's employee}] or the dealer's financial institution. (g) Notwithstanding the prohibitions in this section, an authorized agent [\textit{representative}] or employee may sign a [\textit{any}] required odometer statement. (statements)

(h) In a wholesale transaction for the purchase of a motor vehicle, the seller may accept as consideration only:

(1) a check or a draft drawn on the purchasing dealer's account;

(2) a cashier's check in the name of the purchasing dealer;

(3) a wire transfer from the purchasing dealer's bank account.

§215.149. Independent Mobility Motor Vehicle Dealers.

In accordance with Occupations Code, §2301.361, a transaction occurs through or by a franchised dealer of the motor vehicle's chassis line-make if the franchised dealer applies for title and registration of the mobility motor vehicle in the name of the purchaser. An independent mobility motor vehicle dealer may prepare the documentation necessary for
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1 a franchised dealer to comply with the requirements of
2 Transportation Code, §501.0234 in connection with the sale of a
3 mobility motor vehicle.

4

5 §215.150. Authorization to Issue Temporary Tags.
6  (a) A dealer that holds a GDN may issue a dealer's
7 temporary tag, buyer's temporary tag, or a preprinted Internet-
8 down temporary tag [Dealers who hold a General Distinguishing
9 Number license may issue dealer temporary tags, buyer's
10 temporary tags, and Internet-down temporary tags] for each type
11 of vehicle the dealer is licensed to sell. A converter that
12 [who] holds a converter's license under Occupations Code,
13 Chapter 2301 may issue a converter's temporary tag. [converter
14 temporary tags.]
15  (b) A license holder [Licensee] may issue an applicable
16 dealer's temporary tag, buyer's temporary tag, or converter's
17 temporary tag [temporary dealer, buyer's, or converter tags]
18 until the [a] license is canceled [canceled], revoked, or
19 suspended [in accordance with law].
20  (c) A dealer's authorization to obtain numbers in advance
21 for use on Internet-down tags may be modified, suspended, or
22 revoked after opportunity for hearing in accordance with
23 Occupations Code, Chapter 2301 and Government Code, Chapter
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2001, if the dealer has misused the tags or failed to comply
with the requirements for issuance and recordkeeping in
Transportation Code, §503.067 or this subchapter.]

§215.151. Temporary Tags, General Use Requirements, and
Prohibitions.

(a) A dealer shall secure a temporary tag to a vehicle in
the license plate display area located at the rear of the
vehicle, so that the entire temporary tag is visible and legible
at all times, including when the vehicle is being operated.

[(a) All temporary tags shall be displayed in the rear
license plate display area of the vehicle. The tag must be
secured to the vehicle so that the entire tag is visible and
legible.]

(b) All printed information on a temporary tag must be
visible and may not be covered or obstructed by any plate holder
or other device or material.

[(c) Homemade tags or tags that have buyer's tag
information printed on one side and dealer's tag information
printed on the other side are not permitted.]

[(c)[(d)] A [Each] motor vehicle that is being transported
using the full mount method, the saddle mount method, the tow
bar method, or any combination of those methods in accordance
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with Transportation Code, §503.068(d), must have a dealer's
temporary tag, a [dealer's] converter's temporary tag, or a buyer's
temporary tag, whichever is applicable, affixed to the motor
vehicle being transported. [that vehicle.]

§215.152. Obtaining Numbers for Issuance of Temporary Tags.
(a) A dealer or a converter is required to [Dealers and
converters must] have Internet access to connect to the
temporary tag databases maintained by the department.
(b) Except as provided by §215.157 of this title
(subchapter) (relating to Advance Numbers, Preprinted Internet-
down [Buyer's] Temporary Tags), before a temporary tag may be
issued and displayed on a vehicle, a [the] dealer or converter
must:
(1) enter in the temporary tag [into the] database
information about the vehicle, dealer, converter, or buyer, as
appropriate;[r] and
(2) obtain a specific number for the temporary tag.
[tag before a temporary tag may be issued and displayed on a
vehicle.]

§215.153. Specifications for All Temporary Tags.
(a) Information printed or completed on a temporary tag

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[all temporary tags] must be in black ink on a white background.

Other than for a motorcycle [for vehicles, other than
motorcycles], a completed buyer's, dealer's, converter's, or
preprinted [buyer, dealer, converter, and] Internet-down
temporary tag shall be six [6] inches high and at least [by a
minimum of] 11 inches wide. For a motorcycle [motorcycles], the
completed buyer's, dealer's, converter's, or preprinted [buyer,
dealer, converter, and] Internet-down temporary tag shall be

(b) A temporary tag [All temporary tags] must be:

(1) composed of plastic or other durable, weather-
resistant material; or [or must be]

(2) sealed in a two [2] mil clear poly bag that
encloses the entire temporary tag.

(c) A dealer or converter may manually copy the information
[provided] from the temporary tag database to a preprinted [pre-
printed] temporary tag template. A temporary tag completed in
this manner must: [in accordance with the specifications of the
appropriate appendix listed in subsection (c) of this section.
Temporary tags completed by hand must have]

(1) display the information drawn in letters and
numerals with a permanent, thick, black marking pen; and[

(2) comply with the specifications of the applicable
temporary tag identified by the following appendices:

[(e) If a dealer uses the option provided by subsection (b) of this section, the dealer or converter shall use the design of the respective temporary tag from the appropriate following Appendices:]

(A) Appendix A-1 - Dealer's Temporary Tag

[Dealer] - Assigned to Specific Vehicle;

Figure: 43 TAC §215.153(c)(2)(A) [§215.153(e)(1)]

(B) Appendix A-2 - Dealer's Temporary Tag

[Dealer] - Assigned to Agent;

Figure: 43 TAC §215.153(c)(2)(B) [§215.153(e)(2)]

(C) Appendix B-1 - Buyer's Temporary Tag

[Buyer];

Figure: 43 TAC §215.153(c)(2)(C) [§215.153(e)(3)]

(D) Appendix B-2 - Preprinted Internet-down Temporary Tag; and

Figure: 43 TAC §215.153(c)(2)(D) [§215.153(e)(4)]

(E) Appendix C-1 - Converter's Temporary Tag

[Converter].

Figure: 43 TAC §215.153(c)(2)(E) [§215.153(e)(5)]


(a) A dealer's temporary tag [Dealer temporary tags] may be
displayed only on the type of vehicle for which the GDN [general distinguishing number] is issued and for which the [a] dealer is licensed by the department to sell.

[(b) Dealer temporary tags may be used by the dealer only to:

[(1) demonstrate the vehicle or cause the vehicle to be demonstrated to a prospective buyer for sale purposes only;]

[(2) convey or cause the vehicle to be conveyed;]

[(A) from one of the dealer's places of business in this state to another of the dealer's places of business in this state;]

[(B) from the dealer's place of business to a place where the vehicle is to be repaired, reconditioned, or serviced;]

[(C) from the state line or a location in this state where the vehicle is unloaded to the dealer's place of business;]

[(D) from the dealer's place of business to a place of business of another dealer;]

[(E) from the point of purchase by the dealer to the dealer's place of business;]

[(F) to road test the vehicle;]

[(3) use the vehicle for or allow its use by a

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(4) permit a customer to temporarily operate a
vehicle while the customer’s vehicle is being repaired. A
vehicle-specific type dealer temporary tag shall be used for
this purpose.

(e) A vehicle being conveyed under this section is exempt
from the inspection requirements of Transportation Code, Chapter
548.

(b)(4) A wholesale motor vehicle auction license holder
that also holds a dealer GDN [A dealer who holds a wholesale
motor vehicle auction general distinguishing number] may display
a dealer's temporary tag on a vehicle that is being [its dealer
temporary tags on any vehicles that are] transported to or from
the licensed auction location [by a bona fide employee or agent
of the auction].

(c)(e) When an unregistered vehicle is sold to another
dealer, the selling dealer shall remove the selling dealer's
[its dealer] temporary tag. The purchasing dealer may display
its dealer temporary tag or its metal dealer's license [dealer]
plate on the vehicle. [If a vehicle is consigned from one dealer
to another, the vehicle must display the temporary tag of the
dealer to which that vehicle was consigned.]
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(d) [(f)] A dealer's temporary tag [Dealer temporary tags] may not be displayed on:

(1) a laden commercial vehicle [vehicles] being operated or moved on [upon] the public streets or highways; or

(2) on the dealer's service or work vehicles.

(e) [(f)] For purposes of this section, a dealer's service or work vehicle includes: [Examples of vehicles considered as service or work vehicles for purposes of this subsection are:]

(1) [(A)] a vehicle used for towing or transporting other vehicles;

(2) [(B)] a vehicle, including a light truck, used in connection with the operation of the dealer's shops or parts department;

(3) [(C)] a courtesy car [on which a courtesy car sign is displayed];

(4) [(D)] a rental or lease vehicle; and

(5) [(E)] any boat trailer owned by a dealer or manufacturer that is used to transport more than one boat.

[(2) A light truck is not considered to be a laden commercial vehicle when it is:

[(A) mounted with a camper unit; or]

[(B) towing a trailer for recreational purposes.]]

(f) [(e)] For purposes of subsection (d) of this section, a

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[A] vehicle bearing a dealer's temporary tag is not considered [to be] a laden commercial vehicle when the vehicle [it] is:

(1) [A] towing another vehicle bearing the same dealer's temporary tags;[r] and

(2) [B] both vehicles are being conveyed from the dealer's place of business to a licensed wholesale motor vehicle [auto] auction or from a licensed wholesale motor vehicle [auto] auction to the dealer's place of business.

(g) [4] As used in this section, "light truck" has the same meaning assigned by Transportation Code, §541.201.

(h) [4] A dealer's [dealer] temporary tag may not be used to operate a vehicle for the personal use of a dealer or a dealer's employee.

(i) [h] A dealer's [dealer] temporary tag must show its expiration date, which must [which may] not exceed 60 days after the date the temporary tag was issued. [its date of issuance.]

(j) [i] A dealer's [dealer] temporary tag may be issued by a dealer to a specific motor vehicle in the dealer's inventory or to a dealer's agent who is authorized to operate a motor vehicle owned by the dealer.

(k) [j] A dealer that [who] issues a dealer's [dealer] temporary tag to a specific vehicle must ensure that the following information is placed on the temporary tag:

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1. (1) the vehicle-specific number from the temporary tag database;
2. (2) the year and make of the vehicle;
3. (3) the VIN (vehicle identification number—VIN) of the vehicle; [and]
4. (4) the month, day, and year of the temporary tag's expiration; and [and]
5. (5) the name of the dealer.

(1) A dealer that [who] issues a dealer's [dealer] temporary tag to an agent must ensure that the following information is placed on the temporary tag:
6. (1) the specific [agent-specific] number from the temporary tag database; [and]
7. (2) the month, day, and year of the temporary tag's expiration; and [and]
8. (3) the name of the dealer.

§215.155. Buyer's Temporary Tags.
9. (a) A buyer's temporary [buyer's] tag may be displayed only on a vehicle that can be legally operated on [may be operated upon] the public streets and highways and for which a sale has been consummated.
10. (b) A buyer's temporary tag may be displayed only a vehicle
that has a valid inspection in accordance with Transportation
Code, Chapter 548.

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

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

[(b) A dealer must place a temporary buyer's tag on any new
or used vehicle sold by the dealer, except for a vehicle sold in
a wholesale transaction in which the purchasing dealer places
its own dealer temporary tag or the purchasing dealer's metal
dealer plate on the vehicle.]

(d) [(e)] A buyer's temporary tag is [Temporary buyer's tags
are] valid until the earlier of:

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

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

(1) the vehicle-specific number obtained from the
temporary tag database;
(2) the year and make of the vehicle;
(3) the VIN [vehicle identification number (VIN)] of
the vehicle; [and]
(4) the month, day, and year of the expiration of the buyer's temporary tag; and [tag's expiration.

(5) the name of the dealer.

§215.156. Buyer's Temporary Tag Receipt.

A dealer must provide a buyer's temporary tag receipt to the buyer of each vehicle for which a buyer's temporary tag is issued, regardless of whether the buyer's temporary tag is issued using the temporary tag database or if the tag is a preprinted [in the ordinary course of business or is an] Internet-down temporary tag. The dealer may print the image of the buyer's temporary tag receipt issued from the temporary tag database or create the form using the same information. The dealer shall instruct the buyer to keep a copy of the buyer's temporary tag receipt in the vehicle until the vehicle is registered in the buyer's name and until metal plates are affixed to the vehicle. The buyer's temporary tag receipt must include the following information:

1. the issue date of the buyer's temporary tag;
2. the year, make, model, body style, color, and VIN [vehicle identification number (VIN)] of the vehicle sold;
3. the vehicle-specific temporary tag number;
4. the expiration date of the temporary tag;
(5) the date of the sale;

(6) the name of the issuing dealer and the dealer's license number; and

(7) the buyer's name and mailing address.

§215.157. Advance Numbers, Preprinted Internet-down [Buyer's]
Temporary Tags.

(a) In accordance with Transportation Code, §503.0631(d), a dealer may obtain an advance supply of preprinted Internet-down temporary tags with specific numbers and buyer's temporary tag receipts to issue in lieu of buyer's temporary tags if the dealer is unable to access the Internet.

(b) If a dealer is unable to access the Internet at the time of a sale, the dealer must complete the preprinted Internet-down temporary buyer's tag and buyer's temporary tag receipt by providing details of the sale, signing the buyer's temporary tag receipt, and retaining a copy. The dealer must [and sign the buyer's receipt, retain a copy of the signed buyer's receipt, and] enter the required information regarding [on] the sale in the temporary tag [into the] database not later than the close of the next business day that the dealer has access to the Internet. The buyer's temporary tag receipt must include [have] a statement that the dealer has Internet

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access\(\tau\), but at the time of the sale, the dealer was unable to access the Internet or the temporary tag database.

\$215.158. General Requirements and Allocation of \emph{Preprinted} Internet-down \emph{Temporary} Tag Numbers.

(a) Preprinted tags with Internet-down numbers shall be kept in a secure place. The dealer is responsible for the safekeeping of preprinted Internet-down temporary tags and shall store them in a secure place. The dealer shall report any loss, theft, or destruction of preprinted Internet-down temporary tags to the department within 24 hours of discovering the time of the loss, theft, or destruction.

(b) A dealer may use a preprinted Internet-down temporary tag [Tags with Internet-down numbers may be used] up to 12 months after the date the preprinted Internet-down temporary tag is created. [of issuance of the tag from the database.] A dealer may create replacement preprinted Internet-down temporary tags [tags with Internet-down numbers,] up to the maximum allowed, when:

(1) a dealer uses one or more preprinted Internet-down temporary tags and then enters the required information in the temporary tag database [tags with Internet-down numbers and then enters the data into the system,] after access to the temporary
tag database [system] is again available; or

(2) a preprinted Internet-down temporary tag expires.

[tag with an Internet-down number expires,]

(c) The number of preprinted Internet-down temporary tags

that [tags with Internet-down numbers] a dealer may create is

equal to the greater [greatest] of:

(1) the number of preprinted Internet-down temporary

tags previously allotted by the department to the dealer;

(2) 30 [thirty]; or

(3) 1/52 of the dealer's total annual sales.

(d) For good cause shown, a dealer may obtain more than the

number of preprinted Internet-down temporary tags described in

subsection (c) of this section. The director of the Vehicle

Titles and Registration Division of the department[\tau] or that

director's delegate[\tau] may approve\omega in accordance with this

subsection, an additional allotment of preprinted Internet-down

temporary tags [with Internet-down numbers] for a dealer if the

additional allotment is essential for the continuation of the

dealer's business. The director of the Vehicle Titles and

Registration Division of the department[\tau] or that director's

delegate[\tau] will base the determination of the additional

allotment of preprinted Internet-down temporary tags on the

dealer's past sales, inventory, and any other factors that the
director of the Vehicle Titles and Registration Division of the department[\textit{\textsuperscript{7}}] or that director's delegate[\textit{\textsuperscript{7}}] determines pertinent, such as an emergency. A request for additional preprinted Internet-down temporary tags [tags with Internet-down numbers] must specifically state why the additional preprinted Internet-down temporary tags are necessary for the continuation of the applicant's business.

§215.159. Converter's Temporary Tags.

[(a) Converter's temporary tags may be used only by the converter or the converter's employees on unregistered vehicles to]

[(1) demonstrate the vehicle, or cause the vehicle to be demonstrated, to a prospective buyer who is a franchised motor vehicle dealer or an employee of a franchised motor vehicle dealer; or]

[(2) convey the vehicle or cause the vehicle to be conveyed;]

[(A) from one of the converter's places of business in this state to another of the converter's places of business in this state;]

[(B) from the converter's place of business to a place where the vehicle is to be assembled, repaired,
reconditioned, modified, or serviced;

[(C) from the state line or a location in this state where the vehicle is unloaded to the converter's place of business;

[(D) from the converter's place of business to a place of business of a franchised motor vehicle dealer; or]

[(E) to read test the vehicle.]

[(b) Prospective buyers who are employees of a franchised dealer or a converter may operate a vehicle displaying a converter's temporary tags during a demonstration.]

[(c) A vehicle being conveyed while displaying a converter's temporary tag is exempt from the inspection requirements of Transportation Code, Chapter 548.]

[(d) Converter's temporary tags may not be used to operate a vehicle for the converter's or a converter's employee's personal use.]

(a) [(e)] A converter's temporary tag [Converter's temporary tags] may be displayed only on the type of vehicle that the converter is engaged in the business of assembling or modifying.

[(f) When an unregistered new motor vehicle is sold to a converter, the selling dealer shall remove a dealer's temporary tag. The selling dealer may attach a buyer's temporary tag to the vehicle or the purchasing converter may display a tag.]

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converter's temporary tag or metal converter plate on the
vehicle.

(b) A converter's temporary tag must show its expiration date, which may not be more than 60 days after the date of its issuance.

(h) A converter may be issued by a converter to a specific vehicle or to a converter's agent who is authorized to operate a motor vehicle owned by the converter.]

(c) A converter that issues a converter's temporary tag to a specific vehicle shall ensure that the following information is placed on the converter's temporary tag:

1. the vehicle-specific number from the temporary tag database;
2. the year and make of the vehicle;
3. the VIN of the vehicle; [and]
4. the month, day, and year of the tag's expiration of the converter's temporary tag; and[
5. the name of the converter.

[f] A converter who issues a temporary converter's tag to an agent shall ensure that the following information is placed on the tag.

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[(1) the agent-specific number from the database; and]

[(2) the month, day, and year of the tag's expiration.]


(a) A dealer shall place a sign on each motor vehicle it displays or offers for retail sale that has been repaired, rebuilt or reconstructed and issued a title under Transportation Code, §501.100. The sign must:

(1) be visible from outside of the motor vehicle; and

(2) contain lettering that is two inches or more in height, stating as follows: "This motor vehicle has been repaired, rebuilt or reconstructed after formerly being titled as a salvage motor vehicle."

(b) Upon the sale of a motor vehicle, a dealer shall obtain the purchaser's signature to a disclosure written in eleven point or larger font that states as follows: "I, (name of purchaser), acknowledge that at the time of purchase, I am aware that this vehicle has been repaired, rebuilt or reconstructed and was formerly titled as a salvage motor vehicle."

(c) An original signed disclosure required by subsection (b) shall be given to the purchaser and a copy of the signed

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disclosure shall be retained by the dealer in the records of
motor vehicles sales required by §215.144 of this title
(relating to Records).

(d) This section does not apply to a wholesale motor
vehicle auction.
Figure: 43 TAC §215.139(e)

<table>
<thead>
<tr>
<th>If a vehicle dealer is:</th>
<th>Maximum number of metal dealer's license plates issued per license term is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. a franchised motor vehicle dealer</td>
<td>30</td>
</tr>
<tr>
<td>2. a franchised motorcycle dealer</td>
<td>10</td>
</tr>
<tr>
<td>3. an independent motor vehicle dealer</td>
<td>3</td>
</tr>
<tr>
<td>4. an independent motorcycle dealer</td>
<td>3</td>
</tr>
<tr>
<td>5. a franchised or independent travel trailer dealer</td>
<td>3</td>
</tr>
<tr>
<td>6. a trailer or semi-trailer dealer</td>
<td>3</td>
</tr>
<tr>
<td>7. an independent mobility motor vehicle dealer</td>
<td>3</td>
</tr>
<tr>
<td>8. a wholesale motor vehicle dealer</td>
<td>1</td>
</tr>
</tbody>
</table>
Figure: 43 TAC §215.139(f)(1)

<table>
<thead>
<tr>
<th>If a vehicle dealer is:</th>
<th>Number of additional metal dealer's license plates issued to a dealer that demonstrates a need through proof of sales is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. a wholesale motor vehicle dealer</td>
<td>1</td>
</tr>
<tr>
<td>2. a dealer selling fewer than 50 vehicles during the previous 12-month period</td>
<td>1</td>
</tr>
<tr>
<td>3. a dealer selling 50 to 99 vehicles during the previous 12-month period</td>
<td>5</td>
</tr>
<tr>
<td>4. a dealer selling more than 200 vehicles during the previous 12-month period</td>
<td>any number of metal dealer's license plates the dealer requests.</td>
</tr>
</tbody>
</table>
Figure: 43 TAC §215.153(c)(2)(A) [§215.153(e)(4)]

APPENDIX A-1

TEXAS DEALER
VEHICLE OWNED BY JOHN DOE AUTO SALES
THIS VEHICLE TEMPORARILY REGISTERED WITH STATE UNDER TAG #

EXPIRES

VIN

FOR INTRANSIT, ROAD TESTING, DEMONSTRATION AND USE
BY CHARITABLE ORGANIZATIONS

DEALER'S TEMPORARY [DEALER] TAG - ASSIGNED TO SPECIFIC VEHICLE
Figure: 43 TAC §215.153(e)(2)(B) [§215.153(e)(2)]

APPENDIX A-2

TEXAS DEALER

VEHICLE OWNED BY JOHN DOE AUTO SALES

THIS VEHICLE TEMPORARILY REGISTERED WITH STATE UNDER TAG #

EXPIRES [ ]-[ ]-[ ]

Authorized Agent Tag
FOR INTRANSIT, ROAD TESTING, DEMONSTRATION AND USE
BY CHARITABLE ORGANIZATIONS

DEALER'S TEMPORARY [DEALER] TAG – ASSIGNED TO AGENT
Figure: 43 TAC §215.153(e)(2)(C) [§215.153(e)(3)]

APPENDIX B-1

**TEXAS BUYER**

THIS VEHICLE TEMPORARILY REGISTERED WITH STATE UNDER TAG #

EXPIRES

VIN ___________________ SELLER: ABC FANTASTIC FABULOUS AUTO SALES

BUYER'S TEMPORARY TAG
Figure: 43 TAC §215.153(e)(2)(D) [§215.153(e)(4)]

APPENDIX B-2

TEXAS BUYER – INTERNET
THIS VEHICLE TEMPORARILY REGISTERED WITH STATE UNDER TAG #

4587650

EXPIRES

VIN

SELLER: ABC FANTASTIC FABULOUS AUTO SALES

PREPRINTED INTERNET-DOWN TEMPORARY [INTERNET-DOWN BUYER'S] TAG
APPENDIX C-1

TEXAS CONVERTER
VEHICLE OWNED BY JOHN DOE CONVERSIONS

EXPIRES

FOR INTRANSIT, ROAD TESTING, DEMONSTRATION

CONVERTER'S TEMPORARY [CONVERTER] TAG
SUBCHAPTER F. VEHICLE LESSORS AND VEHICLE LEASE FACILITATORS

§215.171. Purpose and Scope. [Objective.]

This subchapter implements [The objective of this subchapter is]
to implement the intent of the legislature as declared in
Occupations Code, Chapter 2301 and more specifically[, and in
particular], §§2301.251, 2301.253, 2301.254, 2301.261, 2301.262,
2301.357, and 2301.551 – 2301.556[, by prescribing rules to
regulate the business of leasing motor vehicles in this state].

§215.173. License.

(a) No person may engage in business as a vehicle lessor or
a vehicle lease facilitator unless that person holds a valid
license issued by the department [has a currently valid license
assigned by the division], or is otherwise exempt by law from
obtaining such a license.

(b) Any person who facilitates vehicle leases on behalf of
a vehicle lease facilitator must:

(1) be on the vehicle lease facilitator's payroll and
receive compensation from which social security, federal
unemployment tax, [in which Social Security, Federal
Unemployment Tax,] and all other appropriate taxes are withheld
from the representative's paycheck and [said taxes are] paid to
the proper taxing authority; and

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(2) have work details such as when, where, and how the final results are achieved, directed, and controlled by the vehicle lease facilitator.


(a) An applicant [Application] for a vehicle lessor's or vehicle lease facilitator's license must submit a sufficient application to the department. To be sufficient, the application must [shall] be on a form prescribed by the department and accompanied by all required supporting documentation. [division, properly completed by the applicant, and shall be submitted with supporting documentation showing all information requested.]

(b) The supporting documentation for a vehicle lessor's license application shall include:

1. a letter of appointment for each lease facilitator or acceptable substitute as designated by the division

(a) [2] verification of the criminal background of each owner and officer of the applicant, if applicable;

(2) [3] the fee required [for the license as prescribed] by law for each type of license required;

(3) [4] a copy of each assumed name certificate on file with the appropriate recording entity, such as the Office...
of the Secretary of State or the county clerk; and

(4) a sample copy of the vehicle lease agreement between the vehicle lessor and a lessee;

(5) a sample copy of the required fee disclosure statement regarding fees paid by the vehicle lessor to a vehicle lease facilitator for the facilitation of a vehicle lease or a statement that no such fees were or will be paid;

(6) a list including the business name(s), DBA(s), and addresses of lease facilitators with whom the applicant conducts or intends to conduct business; and

(7) a list of other satellite offices that conduct business in the State of Texas that includes the address, phone number, and name of the contact person for each location.

(c) The supporting documentation for a vehicle lease facilitator's license application shall include:

[(1) a letter of appointment for each lessor or acceptable substitute as designated by the division;]

(1) [2] a verification of the criminal background of each owner and officer of the applicant, if applicable;

(2) the fee required [for the license as prescribed] by law for each type of license required;

(3) a copy of each assumed name certificate on file with the appropriate recording entity, such as the Office

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of the Secretary of State or the county clerk;

(4) [§6] a sample copy of the vehicle lease agreement
between each of the lessors the lease facilitator represents,
and the lessee; [and]

(5) a sample copy of the required fee disclosure
statement regarding fees paid by a vehicle lessor to the vehicle
lease facilitator for the facilitation of a vehicle lease or a
statement that no such fees were or will be paid;

(6) a list of all vehicle lessors, including names and
addresses, for [with] whom any vehicle lease facilitator
solicits or procures a lessee. The vehicle lease facilitator
shall update the list upon renewal of a license and within 10
[executes leases. This list must be updated in writing upon
renewal of a license, and within ten] days of the addition of
any vehicle lessor to this list; and

(7) a copy of the representation agreement between the
vehicle lease facilitators and each lessor.

§215.175. Sanctions.

(a) The board or department may:

(1) deny a vehicle lessor or vehicle lease facilitator
application;

(2) revoke or suspend a vehicle lessor or vehicle

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lease facilitator license; or

(3) assess a civil penalty or take other action on a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required.

[(a) Repeal/Reduction. The Board may revoke, deny or suspend a lessor or lease facilitator's license, or assess civil penalties, if that lessor or lease facilitator:]

(b) The board or department may take action described in subsection (a) of this section if a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required:

(1) fails to maintain an established and permanent place of business required by [conforming to] §215.177 of this title [subchapter] (relating to Established and Permanent Place of Business);

(2) fails to maintain records required under this subchapter;

(3) refuses [to permit] or fails to comply with a request by a representative of the department [division] to examine during the vehicle lessor's or vehicle lease facilitator's posted business hours at the vehicle lessor's or
vehicle lease facilitator's licensed location: [the current and
previous year's leasing records required to be kept under
§215.178 of this subchapter (relating to Records of Leasing) and
ownership papers for vehicles owned, leased, or under that
lesser or lease facilitator's control, and evidence of ownership
or lease agreement for the property upon which the business is
located;]

(A) a vehicle leasing record required to be
maintained by §215.178 of this title (relating to Records
Required for Vehicle Lessors and Vehicle Lease Facilitators);

(B) ownership papers for a vehicle owned, leased,
or under that vehicle lessor's or vehicle lease facilitator's
control; or

(C) evidence of ownership or a current premises
lease agreement for the property upon which the business is
located;

[(A) during normal working hours at the lessor's
or lease facilitator's permanent place of business, or]

[(B) through a request made by the division
pursuant to these rules;]

(4) refuses or fails to timely comply with a request
for records made by a representative of the department;

(5)[(4)] fails to notify the department in writing

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within 10 days [division] of a change of the vehicle lessor or
vehicle lease facilitator license holder's: [address within ten
days after such change;]

(A) mailing address;

(B) physical address;

(C) telephone number; or

(D) email address;

(6) if [4+] fails to notify the department in writing
within 10 days [division] of a change of the vehicle lessor or
vehicle lease facilitator license holder's name or ownership;

[lessee/lease facilitator's name or ownership within ten days
after such a change;]

(7) if [5+] fails to comply with [observe] the fee
restrictions or other requirements under [as described in]
Occupations Code, §2301.357 or [and] §§2301.551 - 2301.556;

(8) if [6+] fails to maintain [leasing and/or]
advertisement records or otherwise fails to comply with the
advertising requirements of: [as described in these rules;]

(A) §215.178; or

(B) Subchapter H of this chapter (relating to
Advertising);

([7] if fails to remain regularly and actively engaged in
the business of leasing vehicles or facilitating the leasing of

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vehicles for which the license is issued;

(9) violates any law relating to the sale, lease, distribution, financing, or insuring of motor vehicles;

(10) is convicted of an offense that, in accordance with Occupations Code, Chapter 53 and with §215.88 of this title (relating to Criminal Offense and Action on License), directly relates to the duties or responsibilities of the licensed occupation;

(11) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a vehicle lessor or vehicle lease facilitator license;

(12) uses or allows use of a vehicle lessor or vehicle lease facilitator license in violation of any law or for the purpose of avoiding any provision [provisions] of Occupations Code, Chapter 2301; or

(13) wilfully omits material information or makes a material misrepresentation in any application or other documentation [information] filed with the department.

[division]

(11) fails to update in writing the list of lessors, including names and addresses, with which any lease facilitator executes leases within ten days of any changes to this list and
upon renewal of the license.

[(12) violates any state or federal law relating to
the leasing of new motor vehicles.]

(c) The board or department may take action on a vehicle
lessor's license or assess civil penalties for the vehicle
lessor's failure to notify the department in writing within 10
days of any change, addition, or deletion to the list of vehicle
lease facilitators with whom the vehicle lessor conducts
business, including any change to a vehicle lease facilitator's
mailing address, physical address, telephone number, or email
address.

(d) The board or department may take action on a vehicle
lease facilitator's license or assess civil penalties for the
vehicle lease facilitator's failure to notify the department in
writing within 10 days of any change, addition, or deletion to
the list of vehicle lessors for whom the vehicle lease
facilitator conducts business, including any change to a vehicle
lessor's mailing address, physical address, telephone number, or
email address.

(e) The board or department may take action on a vehicle
lessor's or vehicle lease facilitator's license if the vehicle
lessor or vehicle lease facilitator accepts a fee from a dealer,
directly or indirectly, for referring a customer who purchases

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or considers purchasing a motor vehicle.

[(b) Referral fees prohibited. A lessor or lease facilitator may not, directly or indirectly, accept a fee from a dealer for referring customers who purchase or consider purchasing vehicles.]

§215.176. More Than One Location.

(a) A vehicle lease facilitator [Lease facilitators] must be licensed separately for each business location.

(b) A vehicle lessor or vehicle lease facilitator that relocates [Lessors or lease facilitators that relocate] from a point outside the limits of a city or relocates [, or relocate] to a point not within the limits of the same city of the initial location is [are] required to obtain a new license.

(c) A vehicle lessor is [Lessors are] required to obtain a license for the vehicle lessor's primary location. A vehicle lessor [their primary locations. Lessors] must provide the address, telephone number, and the name of a contact person for all other satellite offices that conduct business in the state of Texas.

§215.177. Established and Permanent Place of Business.

(a) A vehicle lessor or vehicle lease facilitator operating
within the State of Texas must meet the following requirements at each location where vehicles are leased or offered for lease.

1. Physical location requirements.
   
   (A) A vehicle lessor or vehicle lease facilitator operating within the State of Texas must be open to the public. The vehicle lessor's or vehicle lease facilitator's business hours for each day of the week must be posted at the main entrance of the office. The owner or an employee of the vehicle lessor or vehicle lease facilitator must be at the location during the posted business hours for the purpose of leasing vehicles. In the event the owner or an employee is not available to conduct business during the posted business hours, a separate sign must be posted indicating the date and time such owner or employee will resume vehicle leasing operations.

   (B) A vehicle lessor's or vehicle leasing facilitator's office structure must be of sufficient size to accommodate the following required equipment: equipped with

   (i) a desk and chairs from which the vehicle lessor or vehicle lease facilitator transacts business; and

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(ii) a working telephone number [instrument] listed in the business name or assumed name under which the vehicle lessor or vehicle lease facilitator conducts [does] business.

(C) [does] A vehicle lessor or vehicle lease facilitator that files an application for a new license or a vehicle lessor that files an application for a satellite location must comply with [supplemental location must conform to] the following requirements:

(i) The office must be located in a building with connecting exterior walls on all sides.

(ii) The office must comply with all applicable local zoning ordinances and deed restrictions.

(iii) The office may not be located within a residence, apartment, hotel, motel, or rooming house.

(iv) The physical address of the office must be recognized by the U.S. Postal Service and [es] capable of receiving U.S. mail.

(D) [does] A portable-type office structure may qualify as an office only if the structure meets the [provided it meets the minimum] requirements of this section and is not a readily moveable trailer or other [such] vehicle.

(E) One or more licensed vehicle lessors or
vehicle lease facilitators, or a combination of one or more licensed vehicle lessors and vehicle lease facilitators may occupy the same business structure and conduct vehicle leasing operations in accordance with the license held by the vehicle lessor or licensed vehicle lease facilitator. Each person engaged in business as a vehicle lessor or vehicle lease facilitator must have:

[(D) In these instances when two or more lessors or lease facilitators occupy the same business locations and conduct their respective leasing operations under different names, one office structure for all lessors or lease facilitators operating from such location will be acceptable; provided, however, each lessor or lease facilitator must have:]

(i) a separate desk from which that vehicle lessor or vehicle lease facilitator transacts business;

(ii) a separate working telephone number listed [instrument, number, and listing] in the vehicle lessor or vehicle lease facilitator's business name or assumed name;

(iii) a separate right of occupancy that meets [meeting] the requirements of this section; and[

(iv) a vehicle lessor or vehicle lease facilitator license issued by the department in the name of the vehicle lessor or vehicle lease facilitator.
(F) [+] A vehicle lease facilitator's established and permanent place of business[as prescrib] in this rule, must be physically located within the State [state] of Texas.

(2) Sign requirements. A vehicle lessor or vehicle lease facilitator shall display a conspicuous and permanent sign at the licensed location showing the name under which the vehicle lessor or vehicle lease facilitator conducts business. Outdoor signs must contain letters that are at least [no smaller than] six inches in height.

(3) Premises lease [Lease] requirements. If the premises from which a licensed vehicle lessor or vehicle lease facilitator conducts business is [are] not owned by the license holder, the license holder must maintain for the licensed location a valid premises lease that is continuous during the period of time for which the vehicle [licensee, such licensees shall maintain a lease continuous for the same period of time as the] lessor's or vehicle lease facilitator's license will be issued. The premises[and such] lease agreement must [shall] be on a properly executed form containing at a minimum[, but not limited to the following information]:

(A) the name of the landlord of the premises and the name of the vehicle lease facilitator as the tenant of the
1 premises [names of the lessor and lessee];
2 (B) the street address or legal description of
3 the property, provided that if only a legal description of the
4 property is included, the applicant must attach a statement that
5 the property description in the lease agreement is the street
6 address identified on the application [or street address]; and
7 (C) the period of time for which the premises
8 lease is valid.
9 (b) A vehicle lessor that does not deal directly with the
10 public to execute vehicle leases and [lessee] whose licensed
11 location is in another state [and who does not deal directly
12 with the public to execute leases] must meet the following
13 requirements at each location.
14 (1) Physical location requirements.
15 (A) The vehicle lessor's office structure must be
16 of sufficient size to accommodate the following required
17 equipment: [and must be equipped with]
18 (i) a desk and chairs from which the vehicle
19 lessor transacts [his] business; and [The office also must be
20 equipped with]
21 (ii) a working telephone number [instrument]
22 listed in the business name or assumed name under which the
23 vehicle lessor conducts [lessee or lease facilitator does]
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1 business.

(B) A vehicle lessor that files an application for a new license or a satellite location with a primary [supplemental location whose] licensed location [is] in another state must conform to the following requirements. [+]

(i) The office must be located in a building[τ] with connecting exterior walls on all sides.

(ii) The office must comply with all applicable local zoning ordinances and deed restrictions.

(iii) The office may not be located within a residence, apartment, hotel, motel, or rooming house.

(iv) The physical address of the office must be recognized by the U.S. Postal Service and [er] capable of receiving U.S. mail.

(C) A portable-type office structure may qualify as an office only if the structure meets the[τ—provided it meets the minimum] requirements of this section and is not a readily moveable trailer or other [such] vehicle.

(D) More than one licensed vehicle lessor may occupy the same business structure and conduct vehicle leasing operations under different names in accordance with the license held by each vehicle lessor. Each person engaged in business as a vehicle lessor must have:

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(D) In those instances when two or more lessors occupy the same business locations and conduct their respective leasing operations under different names, one office structure for all lessors operating from such location will be acceptable, provided, however, each lessor must have:

(i) a separate desk from which that vehicle lessor transacts business;

(ii) a separate working telephone number listed [instrument, number, and listing] in the vehicle lessor's business name or assumed name;

(iii) a separate right of occupancy that meets [meeting] the requirements of this section; and

(iv) a vehicle lessor license issued by the department in the name of the vehicle lessor.

(2) Sign requirements. An out of state vehicle lessor shall display a conspicuous and permanent sign at the licensed location showing the name under which the vehicle lessor conducts business. Outdoor signs must contain letters at least [no smaller than] six inches in height.

(3) Premises lease [Lease] requirements. If the out of state premises from which a licensed vehicle lessor conducts business is [are] not owned by the license holder, the license holder must maintain a valid premises lease for [that person or
entity, that person or entity shall maintain a lease on] the
property of the licensed location. The premises lease must be
continuous during the period of time for which the license will
be issued. The premises lease agreement must [continuous for the
same period of time as the license, and such agreement shall] be
on a properly executed form containing at a minimum[, but not
limited to the following information):

(A) the name [names] of the landlord of the
premises and the name of the licensed lessor identified as the
tenant of the premises; [lessor and lessee;]

(B) the street address or legal description of
the property, provided that if only a legal description of the
property is included, the applicant must attach a statement that
the property description in the lease agreement is the street
address identified on the application; [or street address;] and

(C) the period of time for which the premises
lease is valid.

(c) [Independence.] A vehicle lessor or vehicle lease
facilitator shall be independent of financial institutions and
dealerships in location and in business activities, unless that
vehicle lessor or vehicle lease facilitator is an:

(1) employee or [of, a] legal subsidiary of the
financial institution or dealership; or[; or an]
(2) entity wholly owned by the financial institution or dealership.

(d) For [the] purposes of this section, [subsection] an employee is a person who meets the requirements of §215.173(b) of this title [chapter] (relating to License).

§215.178. Records Required for Vehicle Lessors and Vehicle Lease Facilitators [of leasing].

(a) Purchase and leasing records. A vehicle lessor or vehicle lease facilitator must maintain [keep] a complete record of all vehicle purchases and sales for [a minimum period of] at least one year after the expiration of the vehicle lease.

(1) Records reflecting vehicle lease transactions that [have] occurred within the preceding 24 months must be maintained at the licensed location. Records for prior time periods may be kept off-site at a location within the same county or within 25 miles of the licensed location.

(2) Within 15 days of [Upon] receipt of a request sent by mail or by electronic document transfer from a representative of the department, a vehicle lessor or vehicle lease facilitator must deliver a copy of the [produce copies of] specified records to the address listed in the request [within 15 days].

(b) Content of records. A complete record for a vehicle

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lease transaction must contain: [As used in this subsection, a
complete lease file shall contain the following information or
documents:]

(1) the name, address [names, addresses], and
telephone number [numbers] of the lessor of the vehicle subject
to [in] the transaction;

(2) the name, mailing address, physical address
[names, addresses], and telephone number of each [numbers of
the] lessee of the vehicle subject to [in] the transaction;

(3) the name, address [names, addresses], telephone
number [numbers], and license number [numbers] of the lease
facilitator of the vehicle subject to [in] the transaction;

(4) the name, home address, and telephone number of
each employee of the vehicle lease facilitator that [who]
handled the transaction;

(5) a complete description of the vehicle involved in
the transaction, including the VIN; [its vehicle identification
number (VIN)];

(6) the name, address, telephone number, and GDN
[general distinguishing number] of the dealer selling the
vehicle, as well as the franchise license number of the dealer
if the vehicle involved in the transaction is a new motor
vehicle;

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(7) the amount of fee [received by or] paid to the
vehicle lease facilitator or a statement that no fee was paid;
(8) a copy [copies] of the buyer's [buyers'] order and
sales contract for the vehicle;
(9) a copy of the vehicle lease contract;
(10) a copy [copies] of all other contracts,
agreements, or disclosures between the vehicle lease facilitator
and the consumer lessee; and
(11) a copy [copies] of the front and back of the
manufacturer's statement of origin, manufacturer's certificate
of origin, [Manufacturer's Statement/Certificate of Origin] or
the title of the vehicle if the vehicle involved in the
transaction is a new motor vehicle.

(c) Records of advertising. A vehicle lessor or vehicle
lease facilitator must maintain a copy [copies] of all
advertisements, brochures, scripts, or an [es] electronically
reproduced copy [copies] in whatever medium appropriate, of
promotional materials for a period of at least 18 months. Each
copy is[τ] subject to inspection upon request by a
representative of the department [Board] at the business of the
license holder during posted [licensee during regular] business
hours.

(1) Vehicle Lessors and vehicle lease facilitators
must comply with all federal and state advertising laws and
regulations, including [All advertisements by lessors or lease
facilitators must be in accordance with] Subchapter H of this
chapter (relating to Advertising).

(2) A vehicle lessor or vehicle lease facilitator
[Lessors and lease facilitators] may not state or infer in any
advertisement, either directly or indirectly, that the [in any
manner such as advertisements, stationery or business cards that
their] business involves the sale of new motor vehicles.

(d) Title assignments. Each certificate [All certificates]
of title, manufacturer's certificate [certificates] of origin,
or other evidence of ownership for a vehicle that has [vehicles
which have] been acquired by a vehicle lessor for lease must be
properly assigned [properly] from the seller in the vehicle
[into the] lessor's name.

(e) Letters of appointment. A letter [All letters] of
appointment between a vehicle lessor and a vehicle [each lessor
er] lease facilitator with whom the vehicle lessor conducts [the
licensee--dee] business must be executed by both parties.

(f) Electronic records. Any record [records] required to be
maintained [kept] by a vehicle lessor or vehicle lease
facilitator may be maintained [kept] in an electronic format,
provided [if] the electronic record [records] can be printed at

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the licensed location upon request for the record by a representative of the department.

§215.179. Change of Vehicle Lessor or Vehicle Lease Facilitator Status.

(a) Change of ownership. A vehicle lessor or vehicle lease facilitator that proposes to sell or assign [and/or assign] to another any interest in the licensed entity, whether a corporation or otherwise, provided the physical location of the licensed entity remains the same, shall notify the department [division] in writing within 10 [ten] days by filing an application to amend the license. If the sale or assignment of any portion of the business results in a change of entity, then the purchasing or assignee entity must apply for and obtain a new license. A publicly held corporation licensed as a vehicle lessor or vehicle lease facilitator needs only inform the department [Publicly held corporations licensed as lessors or lease facilitators need only inform the division] of a change in ownership if one person or entity acquires 10% or greater interest in the licensed entity.

(b) Change of operating status of business location. A license holder [licensee] shall obtain department [division]
1 approval prior to opening a satellite location or relocating
2 [the opening of a supplemental location, or the relocation of]
3 an existing location, in accordance with §215.176 of this title
4 [subchapter] (relating to More than One Location). A license
5 holder [Also, a licensee] must notify the department [division]
6 when closing an existing location or a satellite location.

9 Vehicle lessors and vehicle [lessors and] lease facilitators
10 shall provide notice of the complaint procedures provided by
11 Occupations Code, §§2301.204 and 2301.601 – 2301.613 to each
12 lessee of a new motor vehicle with whom they enter into a
13 vehicle [transact-a] lease.

16 A licensed vehicle lessor is not required to hold a GDN [It is
17 not necessary for a licensed lessor to hold a general
18 distinguishing number (GDN)] in order to sell a motor vehicle
19 that the vehicle lessor owns to [lessor owns, to either] the
20 lessee or to a duly licensed dealer, either directly or through
21 a licensed wholesale motor vehicle auction. A licensed vehicle
22 lessor may not purchase a motor vehicle [lessor is not allowed
23 to purchase vehicles] at a wholesale motor vehicle auction. Any
existing GDN held by a vehicle lessor that [lessee who] does not
otherwise qualify for a GDN shall be canceled. A vehicle
[canceled. A] lessor whose GDN has been canceled [canceled]
under this section may reapply for a GDN once all the
qualifications for a GDN are met.
SUBCHAPTER G. WARRANTY PERFORMANCE OBLIGATIONS

§215.201. Purpose and Scope. [Objective and Definitions.]

(a) This subchapter implements Occupations Code, §2301.204 and §§2301.601 - 2301.613.

[(a) It is the objective of this subchapter to implement the intent of the legislature as declared in Occupations Code, Chapter 2301, Subchapter M (§§2301.601 - 2301.613) and Occupations Code, §2301.204. These rules provide a simplified and fair procedure for the enforcement of these provisions of the Code, including the processing of complaints, the conduct of hearings, and the formal or informal disposition of complaints filed by owners seeking relief under these provisions of the Code.]

(b) Practice and procedure in contested cases heard by the department's [State] Office of Administrative Hearings (OAH) are addressed in Subchapter B of this chapter (relating to Adjudicative Practice and Procedure) [(SOAH) are provided for in Subchapter I of this chapter (relating to Practice and Procedure for Hearings Conducted by the State Office of Administrative Hearings)] and the provisions of this subchapter to the extent that the provisions do not conflict with state law, rule, or court order. [SOAH rules.]

(c) [(b)] The following words and terms, when used in this subchapter, shall have the following meanings, unless the
context clearly indicates otherwise.

(1) Comparable Motor Vehicle--A new motor vehicle, with comparable mileage, from the same manufacturer, converter, or distributor's product line and the same model year or newer as the motor vehicle to be replaced or as reasonably equivalent to the motor vehicle to be replaced.


[(3) Owner--A person as defined by Occupations Code, §2301.601(2).]

(3)(4}] Warranty Performance--Refers to Occupations Code, §2301.204.


(a) Lemon law complaints. [Law Complaints.]

(1) Complaints seeking [for] relief under the lemon law must be in writing [written] and filed with the department. A complaint filed with the department shall be delivered:

(A) in person to the department; [by hand delivery to the department's headquarters building in Austin;]

(B) by mail to the address of the department;[

(C) by email [by e-mail or facsimile]
transmission] to a department-designated email address; or [e-mail address-er]

(D) by facsimile transmission to a department-designated facsimile number.

(2) Complaints may be submitted in letter or other written format, or on complaint forms provided by the department.

(3) Complaints shall [should] state sufficient facts to enable the department and the party complained against to know the nature of the complaint and the specific problems or circumstances forming [which form] the basis of the claim for relief under the lemon law.

(4) Complaints shall, at a minimum, [should] provide the following information:

(A) the name, address, and telephone [phone] number of the motor vehicle owner;

(B) the identification of the motor vehicle, including the [vehicle by] make, model, [and] year, and manufacturer's VIN; [vehicle identification number,]

(C) the type of warranty coverage;

(D) the name and address of the dealer[er] or other person from whom the motor vehicle was purchased or leased, including the name and address of the vehicle lessor, if
applicable;

(E) the date of delivery of the motor vehicle to the original owner[\*] and in the case of a demonstrator, the date the motor vehicle was placed into demonstrator service;

(F) the motor vehicle mileage at the time when:

(time)

(i) the motor vehicle was purchased or leased; [mileage when]

(ii) problems with the motor vehicle were first reported; and [\*]

(iii) the complaint was filed;

(G) the name of the dealer or the name of the manufacturer's, converter's, or distributor's agent to whom the problems were first reported[, and current mileage];

(H)[(G)] identification of the motor vehicle's existing problems and a brief description of the history of problems and repairs on the motor vehicle, including:

(i) the date and mileage of each repair; and

(ii) a copy of each repair order[\*] with copies of repair orders] where possible;

(I)[(H)] the date the motor [date on which written notification of complaint was given to the] vehicle manufacturer, converter, or distributor received written
notification of the complaint; [and]

(J) the date and results of the motor vehicle
inspection, if the motor vehicle was [if the vehicle has been]
inspected by the manufacturer, converter, or distributor[the
date and results of such inspection]; and

(K) [any other information [which] the
complainant deems relevant [believes to be pertinent] to the
complaint.

(5) The department's staff will provide
information concerning the complaint procedure and complaint
forms to any person requesting [information or] assistance.

(6) The filing fee required under the lemon law
should be remitted with the complaint by any form of payment
accepted by the department. The filing fee is nonrefundable, but
a complainant that [who] prevails in a case is entitled to
reimbursement of the filing fee from the nonprevailing party.

Failure to remit the filing fee with the complaint will delay
commencement of the 150-day period referenced in paragraph (8)
[7] of this subsection and may result in dismissal of the
complaint.

(7) The commencement of a lemon law proceeding
occurs on the date the filing fee is received [of receipt of the
filing fee] by the department or its authorized agent.
(8) If the hearings examiner has not issued an order within 150 days after the commencement of the lemon law proceeding in accordance with paragraph (7) of this subsection, department staff shall notify the parties by mail that the complainant may file a civil action in state district court to seek relief under the lemon law. The notice will inform the complainant of the complainant's right to continue the lemon law complaint through the department. The 150-day period shall be extended upon request of the complainant or if a delay in the proceeding is caused by the complainant.

(b) Warranty performance complaints (repair-only relief).

(1) Complaints for warranty performance relief filed with the department must comply with the requirements of subsection (a)(1) - (4) of this section.

(2) A filing fee is not required for a complaint that is subject to a warranty performance claim.

(3) A complaint may be filed with the department in accordance with this section if the defect in the motor vehicle subject to the warranty performance complaint was reported to the manufacturer, converter, distributor, or to an authorized agent prior to the expiration of the warranty...
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period[, a complaint may be filed with the department in
accordance with this section].

(4) If the defect is not resolved pursuant
to §215.205 of this title (relating to Mediation;
Settlement), a hearing will be scheduled and conducted in
accordance with Government Code, Chapter
2001, subject to Occupations Code, Chapter 2301, Subchapter 0
and this subchapter.

(5) The final order authority will issue an order on
the warranty performance complaint. A party who disagrees with
the order may oppose the order in accordance with §215.207 of this title (relating to Contested Cases: Final Orders).

(6) Department staff will provide information
concerning the complaint procedure and complaint forms to any
person requesting assistance.


Department staff will promptly review a complaint (All
complaints will be reviewed promptly by department staff) to
determine if the complaint meets (whether they satisfy) the
minimum requirements of a lemon law or a warranty performance
complaint.

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1. If department staff cannot determine whether a complaint meets the minimum lemon law or warranty performance requirements, the complainant will be contacted for additional information.

2. If department staff determines that the complaint meets the minimum lemon law or warranty performance requirements, the complaint will be processed in accordance with the procedures set forth in this subchapter.

$215.204. Notification to Manufacturer, Converter, or Distributor.

(a) Upon receipt of a complaint for lemon law or warranty performance relief, the department will:

(1) provide notification of the complaint to, and request a response from, the appropriate manufacturer, converter, or distributor; and (and a response to the complaint will be requested. The department will also)

(2) provide a copy of the complaint to, and may request a response from, the selling dealer and any other dealer [dealers that have been] involved with the complaint [and a response may be requested].

(b) The manufacturer shall, upon request by the department,
provide a copy of the warranty for the motor vehicle subject to
the lemon law or warranty performance complaint.

§215.205. Mediation; Settlement.

(a) Department [Before a complaint filed under Occupations
Code, §§2301.204 or §2301.601 – 2301.613 is scheduled for a
hearing, department] staff will attempt to settle or resolve a
lemon law or warranty performance complaint through nonbinding
mediation before a hearing on the complaint is scheduled.

(b) The parties are required [While the mediation is not
binding, all parties are required] to participate in the
nonbinding mediation process in good faith.

(c) In a case filed under Occupations Code, §2301.204 or
§§2301.601 – 2301.613, the mediator shall qualify for
appointment as an impartial third party in accordance with Civil
Practice and Remedies Code, Chapter 154.


Lemon law or warranty performance complaints that satisfy the
jurisdictional requirements of the Occupations Code will be set
for hearing. [Notification of] Notification of the date, time,
and place of the hearing will be given to all parties by
certified mail. Additional information contained in the notice
of hearing shall be consistent with §215.34 of this title
(relating to Notice of Hearing in Contested Cases).

(1) When [Where] possible, hearings will be held in
the city in which [where] the complainant resides [or at a
location reasonably convenient to the complainant].

(2) Hearings will be scheduled at the earliest date
possible, provided that a 10-day notice or other notice [or
such other notice as is] required by law is given to all
parties.

(3) Hearings will be conducted expeditiously by a
hearings examiner in accordance with Government Code, Chapter
2001, subject to Occupations Code, Chapter 2301, Subchapter O;
Occupations Code, §2301.704]; and with the provisions of
Subchapter B of this chapter (relating to Adjudicative Practice
and Procedure) and this subchapter.

(4) Hearings will be conducted informally [informal].

The parties have the right to be represented by attorneys at a
hearing, although attorneys are not required. Any party who
intends to be represented at a hearing by an attorney or an
authorized representative [at a hearing] must notify the
hearings examiner, the department, and any [the] other party in
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writing at least five business days prior to the hearing.

Failure to provide [such] notice will result in postponement of
the hearing if [postponement is] requested by any [the] other
party.

(5) Subject to a hearings examiner ruling, a party may
present that party's case [hearings examiner rulings, parties
may present their cases] in full, including testimony from
witnesses[τ] and documentary evidence such as repair orders,

warranty documents, and the motor vehicle sales contract.

(6) By agreement of the parties and with the written
approval of the hearings examiner, the hearing may be conducted
by written submission [submissions] only or by telephone.

(7) Except for a hearing [hearings] conducted by
written submission [only], each party may be questioned by the
other party[τ] at the discretion of the hearings examiner.

(8) Except for a hearing [hearings] conducted by
written submission [only] or by telephone, the complainant must
bring the motor vehicle in question to the hearing so that the

motor vehicle may be inspected and test driven, unless otherwise
ordered by the hearings examiner upon a showing of good cause by
the complainant.

(9) The department may have the motor vehicle in
question inspected by an expert prior to the hearing, if the
department determines that an expert opinion may assist in
arriving at a decision. An inspection under this section [Any
such inspection] shall be made only upon prior notice to all
parties, who shall have the right to be present at such
inspection. A copy [Copies] of any findings or report from such
inspection will be provided to all parties before, or at, the
hearing.

(10) Except for hearings conducted by written
submission [only], all hearings will be recorded by the hearings
examiner. A copy of the recording [Copies of the hearing
recordings] will be provided to any party upon request and upon
payment for the cost of the copy, as provided by law or board
rules.


(a) A motion for rehearing of a final order issued by the
board for a complaint filed [Board] under Occupations Code,
Chapter 2301, Subchapters E or M shall proceed in accordance
with Occupations Code, §2301.713. [Subchapter E or M, shall
follow the procedures in Subchapter I of this chapter (relating
to Practice and Procedure for Hearings Conducted by the State
Office of Administrative Hearings).]

[(b) A motion for rehearing of a final order issued by a

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(b) The hearings examiner shall prepare a final order as soon as possible, but not later than 60 days after the hearing is closed, or as otherwise provided by law. The final order shall include the hearings examiner's findings of fact and conclusions of law. The final order shall be sent by the department to all parties by certified mail.

(c) A party who disagrees with the final order may file a motion for rehearing in accordance with Government Code, Chapter 2001, subject to Occupations Code, Chapter 2301, Subchapter O. A motion for rehearing of a final order issued by a hearings examiner must: within 20 days from the date of the notification of the final order.

(1) be filed with and decided by the chief hearings examiner;

(2) A motion for rehearing of a final order issued by a hearings examiner must be filed with the appropriate department office and decided by the chief hearings examiner.

(3) A motion for rehearing must include the specific reasons, exceptions, or grounds asserted by a party as the basis of the request for a rehearing; and[

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(3) recite, if applicable, the specific findings of
fact, conclusions of law, or any other portions of the final
order to which the party objects.

(d) Replies to a motion for rehearing must be filed
with the chief hearings examiner in accordance with Government
Code, Chapter 2001, subject to Occupations Code, Chapter 2301,
Subchapter O. [motion for rehearing authority under Occupations
Code, §2301.713 within 30 days after the date of the
notification of the final order.]

(e) The motion for rehearing authority must act on
the motion within 45 days after the date of notification of the
final order, or as otherwise provided by law, or the motion is
overruled by operation of law. The motion for rehearing
authority may, by written order, extend the period for filing,
replying to, and taking action on a motion for rehearing, not to
exceed 90 days after the date of notification of the final
order. In the event of an extension of time, the motion for
rehearing is overruled by operation of law on the date fixed by
the written order of extension, or in the absence of a fixed
date, 90 days after the date of notification of the final
order.]

(e) If the chief hearings examiner [motion for
rehearing authority] grants a motion for rehearing, the parties
will be notified by mail and a [—A] rehearing will be scheduled promptly [as promptly as possible]. After rehearing, a final order shall be issued with any additional findings of fact or conclusions of law, if necessary to support the final order. The chief hearings examiner [motion for rehearing authority also] may issue an order granting the relief requested in a motion for rehearing or requested in a reply to a motion for rehearing [reply thereto] without the need for a rehearing. If a motion for rehearing and the relief requested is denied, an order [see stating] will be issued.

(f)[(f)] A party who has exhausted all administrative remedies[τ] and who is aggrieved by a final order in a contested case from which appeal may be taken is entitled to judicial review pursuant to Government Code, Chapter 2001, subject to Occupations Code, Chapter 2301, Subchapter P[§82301.751-2301.756], under the substantial evidence rule. A petition for judicial review [The petition] shall be filed in a district court of Travis County or in the Court of Appeals, Third District [Court of Appeals for the Third Court of Appeals District] within 30 days after the order is final and appealable. A copy of the petition must be served on the final order authority and any other parties of record. After service of the petition and within the time permitted for filing an
answer, the final order authority shall transmit to the
reviewing court the original or a certified copy of the entire
record of the proceeding. If the court orders that new evidence
[to] be presented to the final order authority, the final order
authority [such decision-maker] may modify the findings and
decision or order by reason of the new evidence, and shall
transmit the additional record to the court.


(a) Unless otherwise indicated, this section applies to
decisions that relate to lemon law complaints. Decisions shall
give effect to the presumptions provided in Occupations Code,
§2301.605, where applicable.

(1) If it is found that the manufacturer, distributor,
or converter is not able to conform the motor vehicle to an
applicable express warranty by repairing or correcting a defect
in the complainant's motor vehicle, creating [vehicle which
creates] a serious safety hazard or substantially impairing
[imparts] the use or market value of the motor vehicle after a
reasonable number of attempts, and that the affirmative defenses
provided under Occupations Code, §2301.606[7] are not
applicable, the final order authority shall issue a final order
to the manufacturer, distributor, or converter to:

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(A) replace the motor vehicle with a comparable motor vehicle, less a reasonable allowance for the owner's use of the vehicle;[7] or

(B) accept the return of the motor vehicle from the owner and refund [to the owner] the full purchase price of the motor vehicle to the owner, [vehicle,] less a reasonable allowance for the owner's use of the motor vehicle.

(2) In any decision in favor of the complainant, the final order authority will, to the extent possible, accommodate the complainant's request with respect to replacement or repurchase of the motor vehicle[; to the extent possible].

(b) This subsection applies only to the repurchase of motor vehicles.

(1) When [Where] a refund of the purchase price of a motor vehicle is ordered, the purchase price shall be the total purchase price of the motor vehicle, excluding [vehicle, but shall not include] the amount of any interest, finance charge, or insurance premiums. The award to the motor vehicle owner shall include reimbursement of [fee] the amount of the lemon law complaint filing fee paid by, or on behalf of, the motor [the] vehicle owner. The refund shall be made payable to the motor vehicle owner and to any lienholder, respective to their ownership interest. [the lienholder, if any, as their interests
require.

(2) There is a rebuttable presumption that a motor vehicle has a useful life of 120,000 miles. Except in cases where the preponderance of the evidence shows that the motor vehicle has a longer or shorter expected useful life than 120,000 miles, the reasonable allowance for the owner's use of the motor vehicle shall be that amount obtained by adding subparagraphs (A) and (B) of this paragraph.

(A) The product obtained by multiplying the purchase price, as defined in paragraph (1) of this subsection, of the motor vehicle[, as defined in paragraph (1) of this subsection] by a fraction having as its denominator 120,000 and having as its numerator the number of miles that the motor vehicle traveled from the time of delivery to the owner to the first report of the defect or condition forming the basis of the repurchase order; and

(B) 50% [50 percent] of the product obtained by multiplying the purchase price by a fraction having as its denominator 120,000 and having as its numerator the number of miles that the motor vehicle traveled after the first report of the defect or condition forming the basis of the repurchase order. The number of miles during the period covered in this paragraph shall be determined from the date of the first report.
of the defect or condition forming the basis of the repurchase order through the date of the hearing.

(3) There is a rebuttable presumption that the useful life of a towable recreational vehicle is 3,650 days or 10 years. Except in cases where a preponderance of the evidence shows that the vehicle has a longer or shorter expected useful life than 3,650 days or 10 years, the reasonable allowance for the owner's use of the towable recreational vehicle shall be that amount obtained by adding subparagraphs (A) and (B) of this paragraph.

(A) The product obtained by multiplying the purchase price, as defined in paragraph (1) of this subsection, of the towable recreational vehicle by a fraction having as its denominator 3,650 days or 10 years except the denominator shall be 1,825 days or five years, if the towable recreational vehicle is occupied on a full time basis, and having as its numerator the number of days from the time of delivery to the owner to the first report of the defect or condition forming the basis of the repurchase order.

(B) 50% [50 percent] of the product obtained by multiplying the purchase price by a fraction having as its denominator 3,650 days or 10 years except the
denominator shall be 1,825 days or five years, [(+5 years),] if
the towable recreational vehicle is occupied on a full time
basis, and having as its numerator the number of days of
ownership after the first report of the defect or condition
forming the basis of the repurchase order. The number of days
during the period covered in this paragraph shall be determined
from the date of the first report of the defect or condition
forming the basis of the repurchase order through the date of
the hearing.

(C) Any day or part of a day that the vehicle is
out of service for repair will be deducted from the numerator in
determining the reasonable allowance for use of a towable
recreational vehicle in this paragraph.

(c) This subsection applies only to leased motor vehicle
relief.

(1) Except in cases involving unusual and extenuating
circumstances[7] supported by a preponderance of the evidence,
when a [where] refund of the purchase price of a leased motor
vehicle is ordered, the purchase price shall be allocated and
paid to the lessee and the vehicle lessor, respectively, in
accordance with [set out as follows in] subparagraphs (A) and
(B) of this paragraph.

(A) The lessee shall receive the total of:
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(i) all lease payments previously paid by the lessee to the vehicle [him to the] lessor under the terms of the lease; and

(ii) all sums previously paid by the lessee to the vehicle [him to the] lessor in connection with entering into the lease agreement, including, but not limited to[\(\tau\)] any capitalized cost reduction, down payment, trade-in, or similar cost, plus sales tax, license, [and] registration fees, and other documentary fees, if applicable.

(B) The vehicle lessee shall receive the total of:

(i) the actual price paid by the vehicle lessor for the motor vehicle, including tax, title, license, and documentary fees, if paid by the vehicle lessor and [lesser, and as] evidenced in a bill of sale, bank draft demand, tax collector's receipt, or similar instrument; and [plus]

(ii) an additional 5.0% of the [5 percent of such] purchase price plus any amount or fee paid by vehicle lessor to secure the lease or interest in the lease.[\(\tau\)]

(C)[(iii)] A credit [provided, however, that a credit\(\tau\)] reflecting all of the payments made by the lessee[\(\tau\)] shall be deducted from the actual purchase price that [which] the manufacturer, converter, or distributor is required to pay

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1. the vehicle lessor, as specified in subparagraph (B)(i) and (ii)
2. of this paragraph. [clauses (i) and (ii) of this subparagraph.]
3. (2) When the final order authority orders a
4. manufacturer, converter, or distributor to refund the purchase
5. price in a leased vehicle transaction, the motor vehicle shall
6. be returned to the manufacturer, converter, or distributor with
7. clear title upon payment of the sums indicated in paragraph
8. (1)(A) and (B) of this subsection. The vehicle lessor shall
9. transfer title of the motor vehicle to the manufacturer,
10. converter, or distributor, as necessary to effectuate the
11. lessee's rights. The lease shall be terminated without penalty
12. to the lessee.
13. (3) Refunds shall be made to the lessee, vehicle
14. lessor, and to any lienholder, respective to their ownership
15. interest. [any lienholders as their interest may appear.] The
16. refund to the lessee under paragraph (1)(A) of this subsection
17. shall be reduced by a reasonable allowance for the lessee's use
18. of the motor vehicle. A reasonable allowance for use shall be
19. computed in accordance with [according to the formula in]
20. subsection (b)(2) or (3) of this section, using the amount in
21. paragraph (1)(B)(i) of this subsection as the applicable
22. purchase price.
23. (d) This subsection applies only to replacement of motor

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vehicles.

(1) Upon issuance of an order from the final order authority to a manufacturer, converter, or distributor to replace a motor vehicle, the manufacturer, converter, or distributor shall:

(A) promptly [Promptly] authorize the exchange of the complainant's motor vehicle with the complainant's choice of any comparable motor vehicle; and [±]

(B) instruct [Instruct] the dealer to contract the sale of the selected comparable motor vehicle with the complainant under the following terms [±]

   (i) The sales price of the comparable motor vehicle shall be the vehicle's suggested retail price (SRP).

   [Manufacturer's Suggested Retail Price (MSRP),]

   (ii) The trade-in value of the complainant's motor vehicle shall be the SRP [MSRP] at the time of the original transaction, less a reasonable allowance for the complainant's use of the complainant's motor vehicle [vehicle] and]

   (iii) The use allowance for replacement relief shall be calculated in accordance with [using the formulas outlined in] subsection (b)(2) and (3) of this section.

(2) Upon any replacement of a complainant's motor

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vehicle, the complainant shall be responsible for payment or financing of the usage allowance of the complainant's vehicle, any outstanding liens on the complainant's vehicle, and applicable taxes and fees associated with the new sale, excluding documentary fees.

(A) If the comparable motor vehicle has a higher SRP [MSRP] than the complainant's vehicle, the complainant shall be responsible at the time of sale to pay or finance the difference in the SRP between the two motor vehicles [two vehicles' MSRPs] to the manufacturer, converter or distributor.

(B) If the comparable motor vehicle has a lower SRP [MSRP] than the complainant's vehicle, the complainant will be credited the difference in the SRP [MSRP] between the two motor vehicles. The difference credited shall not exceed the amount of the calculated usage allowance for the complainant's vehicle.

(3) The complainant is responsible for obtaining [to obtain] financing, if necessary, to complete the transaction.

(4) The replacement transaction, as described in paragraphs (2) and (3) of this subsection, shall be completed as specified in the final order. If the replacement transaction cannot be completed [this cannot be accomplished] within the ordered time period, the manufacturer shall repurchase the
complainant's motor vehicle in accordance with [pursuant to] the repurchase provisions of this section. If repurchase relief occurs, a party may request calculation of the repurchase price by the final order authority.

(e) If the final order authority finds that a complainant's motor vehicle does not qualify for replacement or repurchase, an order may be entered in any proceeding, where appropriate, requiring repair work to be performed or other action taken to obtain compliance with the manufacturer's, converter's, or distributor's warranty obligations.

(f) If the motor vehicle is substantially damaged or if there is an adverse change in the motor vehicle's condition [its condition] beyond ordinary wear and tear, from the date of the hearing to the date of repurchase, and the parties are unable to agree on an amount allowed for such damage or condition, either party may request reconsideration by the final order authority of the repurchase price contained in the final order.

(g) In any award in favor of a complainant, the final order authority may require the dealer involved to reimburse the complainant, manufacturer, converter, or distributor for the cost of any items or options added to the motor vehicle if one or more of those [such] items or options contributed to the defect that is the basis for the order, repurchase, or

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replacement. This subsection shall not be interpreted to require
a manufacturer, converter, or distributor to repurchase a motor
vehicle due to a defect or condition that was solely caused by a
dealer add-on item or option.

§215.209. Incidental Expenses.

(a) When a refund of the purchase price or replacement of a
motor vehicle is ordered, the complainant shall be reimbursed
for certain incidental expenses incurred by the complainant from
loss of use of the motor vehicle because of the defect or
nonconformity which is the basis of the complaint. The expenses
must be reasonable and verifiable. [verified through receipts or
similar written documents.] Reimbursable incidental expenses
include, but are not limited to the following costs:

(1) alternate transportation;

(2) towing;

(3) telephone calls or mail charges directly
attributable to contacting the manufacturer, distributor,
converter, or dealer regarding the motor vehicle;

(4) meals and lodging necessitated by the motor
vehicle's failure during out of town [out-of-town] trips;

(5) loss or damage to personal property;

(6) attorney fees if the complainant retains counsel
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after notification that the respondent is represented by
counsel; and

(7) items or accessories added to the motor vehicle at
or after purchase, less a reasonable allowance for use.
(b) Incidental expenses shall be included in the final
repurchase price required to be paid by a manufacturer,
converter, or distributor to a prevailing complainant or in the
case of a motor vehicle replacement, shall be tendered to the
complainant at the time of replacement.
(c) When awarding reimbursement for the cost of items or
accessories presented under subsection (a)(7) of this section,
the hearings examiner shall consider the permanent nature,
functionality, and value added by the items or accessories and
whether the items or accessories are original equipment
manufacturer (OEM) parts or non-OEM parts.

(a) Compliance with an order issued by the final order
authority will be monitored by the department.
(b)[4+1] A complainant is not bound by a final decision and
order [and may either accept or reject the decision].
(c)[4+2] If a complainant does not accept the final
decision, the proceeding before the final order authority will

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be deemed concluded and the complaint file closed.

(d) If the complainant accepts the final decision, then the manufacturer, converter, or distributor, and the dealer to the extent of the dealer's responsibility, if any, shall immediately take such action as is necessary to implement the final decision and order.

(e) If a manufacturer, converter, or distributor replaces or repurchases a motor vehicle pursuant to an order issued by the final order authority, reacquires a vehicle to settle a complaint filed under Occupations Code, §2301.204 or §§2301.601 – 2301.613, [Chapter 2301, Subchapter N or Occupations Code, §2301.204.1] or brings a motor vehicle into the State of Texas that has been reacquired to resolve a warranty claim in another jurisdiction, then the manufacturer, converter, or distributor shall, prior to the resale of such motor vehicle, retitle [vehicle, re-title] the vehicle in Texas and shall:

(1) issue a disclosure statement on a form provided by or approved by the department; and[

In addition, the manufacturer, converter, or distributor reacquiring the vehicle shall]

(2) affix a department-approved disclosure label in a conspicuous [disclosure label provided by or approved by the
department on an approved location in or on the motor vehicle.

(f) The disclosure label required under subsection (e) of this section shall accompany the motor vehicle through the first retail purchase. No person or entity holding a license or GDN [general distinguishing number] issued by the department under Occupations Code, Chapter 2301 or Transportation Code, Chapter 503 shall remove or cause the removal of the disclosure label until delivery of the motor vehicle to the first retail purchaser.

(g) A manufacturer, converter, or distributor shall provide to the department [in writing] the name, address, and telephone number of the transferee [any transferee, regardless of residence,] to whom the manufacturer, distributor, or converter [as the case may be] transfers the motor vehicle on the disclosure statement [vehicle] within 60 days of each transfer. The selling dealer shall return the completed disclosure statement to the department within 60 days of the retail sale of a reacquired motor vehicle.

(h) The holder of a general distinguishing number who violates this section is liable for a civil penalty or other sanctions prescribed by the Occupations Code. In addition, the]
manufacturer, converter, or distributor must repair the defect or condition in the motor vehicle that resulted in the vehicle being reacquired and issue[ at a minimum, ] a basic warranty excluding non-OEM items or accessories, for a minimum of 12 months or 12,000 miles, whichever comes first. The [for (12 months/12,000 mile, whichever comes first), except for non-
original equipment manufacturer items or accessories, which]

warranty shall be provided to the first retail purchaser of the motor vehicle.

(1)[(5)] In the event this section conflicts with [of any
collision between this section and] the terms contained in a cease and desist order, the terms of the cease and desist order shall prevail.

(j)[(6)] The failure of any manufacturer, converter, distributor, or dealer to comply with a final order issued by the final order authority within the time period prescribed in the order may subject the manufacturer, converter, [or]
distributor, or dealer to formal action by the department, including the assessment of civil penalties or other sanctions prescribed by Occupations Code, Chapter 2301, for the failure to comply with an order issued by the final order authority.
SUBCHAPTER H. ADVERTISING

§215.241. Purpose and Scope. [Objective]

This subchapter implements [The objective of this subchapter is to implement the intent of the legislature as declared in] Occupations Code, Chapter 2301[7] by regulating the advertising of persons under the jurisdiction of the department [Board] by requiring truthful and accurate advertising practices for the benefit of the citizens of this state.


A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the department [Board] to be false, deceptive, or misleading, whether herein described [ex not enumerated herein], shall be deemed a violation of Occupations Code, Chapter 2301 [violations of the Code] and shall also be considered a violation [violations] of the general prohibition.


The violation of an advertising rule shall be considered by the department [Board] as a prima facie violation of Occupations
Code, Chapter 2301.

§215.244. Definitions.
The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Advertisement--

(A) An oral, written, graphic, or pictorial statement or representation made in the course of soliciting business, including, but not limited to [without limitation] a statement or representation:

(i) made in a newspaper, magazine, or other publication;

(ii) contained in a notice, sign, poster, display, circular, pamphlet, or letter;

(iii) aired on the radio; [on radio]

(iv) broadcast on the Internet or television; or

(v) streamed via an online service. [via an on-line service, or on television.]

(B) Advertisement [The term] does not include direct communication between a person or person's [dealer or dealer's] representative and a prospective purchaser.

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(2) Advertising provision--

(A) A provision of Occupations Code, Chapter 2301, [the Code] relating to the regulation of advertising; or

(B) A rule relating to the regulation of advertising, adopted pursuant to the authority of Occupations Code, Chapter 2301. [the Code.]

(3) Bait advertisement--An alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain a lead to a person [leads to persons] interested in buying or leasing merchandise of the type advertised and to switch a consumer [consumers] from buying or leasing the advertised product in order to sell or lease some other product at a higher price or on a basis more advantageous to the licensee. [advertiser.]

(4) Balloon payment--Any scheduled payment made as required by a consumer credit transaction that is more than twice as large as the average of all prior scheduled payments except the down payment.

(5) Buyers guide--A form as required by the Federal Trade Commission under 16 Code of Federal Regulations, Part 455. This form is to be completed and displayed on the side window of a vehicle that has been driven more than the limited use necessary in moving or road testing a new vehicle prior to

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(5) Clear and conspicuous--The statement, representation, or term being disclosed is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning.

(6) Dealership addendum--A form that is [which is to be] displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts, or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a motor vehicle for delivery to a buyer.

(A) The purpose of the addendum is to disclose:

(i) that it is supplemental;

(ii) any added feature, service, equipment, part, or accessory, including the retail price, charged and added by the dealership [and the retail price therefore];

(iii) any additional charge to the selling price such as additional dealership markup; and

(iv) the total dealer selling price.

(B) The dealership addendum form shall not be
deceptively similar in appearance to the Monroney sticker, as defined by paragraph (12) of this section. [manufacturer's label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act.]

(7) Demonstrator--A new motor vehicle that is currently in the inventory of the automobile dealership and used [or has been used] primarily for test drives by customers and for other purposes [other dealership purposes and so] designated by the dealership.

(8) Disclosure--Required information that is clear, conspicuous, and accurate.

(9) Factory executive/official motor vehicle--A new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their subsidiaries.

(10) Licensee--Any person required to obtain a license from the department.

(11) Limited rebate--A rebate that is not available to every consumer purchasing or leasing a motor vehicle because qualification for receipt of the rebate is conditioned or restricted in some manner.

(12) Monroney sticker-- [Manufacturer's label—] The
label required by the Automobile Information Disclosure Act, 15
U.S.C. §§1231 - 1233, to be affixed [by the manufacturer] to the
windshield or side window of certain [each] new motor vehicles
[automobile] delivered to the dealer and that contains
information about the motor vehicle, including the
manufacturer's suggested retail price.

(13) New motor vehicle--A motor vehicle that has not
been the subject of a retail sale regardless of the mileage of
the vehicle.

(14) Online [On-line] service--A network that connects
computer users.

(15) Rebate or cash back--A sum of money refunded to a
purchaser or refunded for the benefit of the purchaser after
full payment has been rendered. The purchaser may choose to
reduce the amount of the purchase price by the sum of money or
the purchaser may opt for the money to be returned to the
purchaser for the purchaser's [himself or for his] benefit
subsequent to payment in full.

(16) Savings claim or discount--An offer to sell a
motor vehicle at a reduced price, including a manufacturer's
customer rebate, a dealer discount, and a limited rebate.

(17)[(15)] Subsequent violation--Conduct that is the
same or substantially the same as conduct the department [Board]
has previously alleged in an earlier communication to be a
violation of an advertising provision.

§215.245. Availability of Motor Vehicles.
(a) A dealer [licensee] may advertise a specific new motor
vehicle or line-make of vehicles for sale if the specific motor
vehicle or line-make is in the possession of the dealer
[licensee] at the time the advertisement is placed [\(\text{or if}\)]
(b) If the specific motor vehicle or line-make is not in
the possession of the dealer [licensee] at the time the
advertisement is placed, the dealer must [licensee] clearly and
conspicuously disclose [discloses] that fact in the
advertisement and state [states] that the motor vehicle may be
obtained from the manufacturer, distributor, or some other
source. The advertisement must set [\(+1\)]
[the advertisement sets] forth the number of
motor vehicles available at the advertised price, if a price is
advertised, at the time the advertisement is placed [\(+2\)] or
[\(+2\)] the [\(+a\)] dealer can show that it has the number
of motor vehicles available to meet the [\(\text{he has available a}\)]
reasonable expectable public demand based on prior experience.
(c) [\(+b\)] If an advertised price pertains to only one
specific motor vehicle, then the advertisement must also
disclose the motor vehicle's stock number or VIN. [vehicle identification number.]
(d) This section does not prohibit general advertising of motor vehicles by a manufacturer, dealer advertising association, or distributor, nor does it prohibit [and] the inclusion of the names and addresses of the dealers selling such motor vehicles in the particular area.
(e) A motor vehicle dealer may advertise a specific used motor vehicle for sale if:
(1) the specific used motor vehicle is in the possession of the dealer at the time the advertisement is placed; and
(2) the title certificate to the used motor vehicle has been assigned to the dealer.

§215.246. Accuracy.
Advertisements shall be accurate, clear, and conspicuous. Advertisements shall not be false, deceptive, or misleading. For an Internet advertisement, a disclosure may be considered accurate, clear, and conspicuous if:
(1) the viewer hovers a mouse across the screen and the disclosure is immediately visible; or
(2) only one click is required to view the disclosure.

The following statements are prohibited.

(1) Statements such as "write your own deal," "name your own price," "name your own monthly payments," or statements with similar meaning.

(2) Statements such as "everybody financed," "no credit rejected," "we finance anyone," and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit.

(3) Statements representing that no other dealer grants greater allowances for trade-ins, however stated, unless the dealer can show such is the case.

(4) Statements representing that because of its large sales volume, a dealer is able to purchase motor vehicles for less than another dealer selling the same make of motor vehicles, unless the dealer can show such is the case.

The layout, headlines, illustrations, or type size of a printed advertisement, an internet advertisement or an advertisement
streamed via an online service, and the broadcast words or
pictures of radio and television [radio/TV] advertisements shall
not convey or permit an erroneous or misleading impression as to
which motor vehicle or vehicles are offered for sale or lease at
featured prices. No advertised offer, expression, or display of
price, terms, down payment, trade-in allowance, cash difference,
savings, or other such material terms shall be misleading. Any
[and any] necessary qualifications shall be clearly,
conspicuously, and accurately set forth to prevent
misunderstanding.


(a) Except as provided by subsection (b) of this section,
the suggested retail price (SRP) [The suggested retail price] of
a new motor vehicle [when] advertised by a manufacturer or
distributor shall include all costs and charges for the motor
vehicle advertised, as shown on the Monroney Sticker. The final
price shown on a Monroney Sticker shall constitute "SRP"
whenever that term is used in this subchapter. [except that]
(b) The following costs and charges may be excluded if an
advertisement described in subsection (a) of this section
clearly and conspicuously states the costs and charges are
excluded:
(1) destination and dealer preparation charges; and
any]

(2) registration, certificate of title, license fees, or an additional registration fee, if any; charged by a full
service deputy as provided by Transportation Code, §502.114;
any]

(3) taxes; and [any]

(4) other fees or charges that are allowed or
prescribed by law [may be excluded from such price, provided
that the advertisement clearly and conspicuously states that
such costs and charges are excluded].

(c) Except as provided by this subsection, if the price of
a motor vehicle is stated in an advertisement [However, with
respect to advertisements] placed with local media in the State
of Texas by a manufacturer or distributor and [which include]
the names of the local dealers for the motor vehicles advertised
are included in that advertisement, then the [if the price of
a vehicle is stated in the advertisement, such] price must
include all costs and charges for the motor vehicle advertised,
including destination and dealer preparation charges. The only
costs and charges that may be excluded from the price are: [and
may exclude only any]

(1) registration, certificate of title, license fees,
or an additional registration fee, if any; charged by a full
service deputy as provided by Transportation Code, §502.114,
any]
(2) taxes; and [any]
(3) other fees or charges that are allowed or
prescribed by law.
(d) The SRP, when advertised by a dealer, must be the
actual SRP.

§215.250. [Dealer] Price Advertising; Savings Claims;
Discounts. [Internet or E-Pricing.]
(a) When featuring a sales [an advertised sale] price of a
new or used motor vehicle in an advertisement, the dealer must
be willing to sell the motor vehicle for that featured sales
[advertised] price to any retail buyer. The featured sales
[advertised sale] price shall be the price before the addition
or subtraction of any other negotiated items. Destination and
dealer preparation charges must be included in the featured
sales price. [The only charges that may be excluded from the
advertised price are,]
[(1) any registration, certificate of title, or
license fees,]
[(2) any taxes, and]
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[+3] any other fees or charges that are allowed or
prescribed by law.]

(b) The only costs and charges that may be excluded from
the featured sales price are:

(1) registration, certificate of title, or license
fees;

(2) taxes; and

(3) other fees or charges that are allowed or
prescribed by law.

(c) A qualification may not be used when featuring a
sales price for a motor [advertising the price of a] vehicle
such as "with trade," "with acceptable trade," "with dealer-
arranged financing," "rebate assigned to dealer," or "with down
payment."

(d) If a price advertisement discloses a rebate, cash
back, or discount savings claim, the price of the vehicle must
be disclosed as well as the price of the vehicle after deducting
the incentive.

(d) Advertising an "Internet price," "e-price," or using
similar terms that indicate or create the impression that there
is a different or unique sales price for an online or Internet
consumer or transaction is prohibited.

(e) A savings claim or discount offer is prohibited except
to advertise a new motor vehicle. No person may advertise a

savings claim or discount offer on a used motor vehicle.

(f) Statements such as "up to," "as much as," and "from"

shall not be used in connection with savings claims or discount

offers.

(g) The savings claim or discount offer for a new motor

vehicle, when advertised, must be the savings claim or discount

available to any and all members of the buying public.

(h) If an advertisement includes a savings claim or
discount offer, the amount and type of each incentive that makes
up the total amount of the savings claim or discount offer must
be disclosed.

(1) If a savings claim or discount offer includes only

a dealer discount, that [an advertisement discloses a discount

savings claim, this] incentive must be disclosed as a deduction

from the SRP [manufacturer's suggested retail price (MSRP)]. The

following are acceptable formats [is an acceptable format] for

advertising a dealer discount with and without a sales price.

[price with a discount-savings claim.]

Figure: 43 TAC §215.250(h)(1) [§215.250(e)(1)]

(2) If a savings claim or discount offer includes only

a customer rebate, that [an advertisement discloses a rebate,

this] incentive must be disclosed as a deduction from the SRP

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advertised price]. The following are acceptable formats [is an acceptable format] for advertising a customer rebate with and without a sales price. [price with a rebate.]

Figure: 43 TAC §215.250(h)(2) [§215.250(e)(2)]

(3) If a savings claim or discount offer includes both a customer rebate and a dealer discount, [an advertisement discloses both a rebate and a discount savings claim,] the incentives must be disclosed as deductions [a deduction] from the SRP. The following are acceptable formats for advertising both a customer rebate and a dealer discount with and without a sales price. [is an acceptable format for advertising a price with a rebate and a discount savings claim.]

Figure: 43 TAC §215.250(h)(3) [§215.250(e)(3)]

(i) [(d)] If a savings claim or discount offer includes an option package discount, [In the event that the manufacturer offers a discount on a package of options, then] that discount should be disclosed above or prior to the SRP with a total sales price of the motor vehicle before option discounts. Any additional savings or discounts should then be disclosed below the SRP. The following are acceptable formats for advertising an option package discount with and without a sales price. [The following is an acceptable format.]

Figure: 43 TAC §215.250(i) [§215.250(d)]
(j) Except as provided herein, the calculation of the featured sales price or featured savings claim or discount may not include a limited rebate. A limited rebate may be advertised by providing the amount of the limited rebate and explaining the conditions or restrictions on qualification for the limited rebate in a statement below the featured sales price or featured savings claim or discount. It is permissible to display a single limited rebate in a second sales price calculation that includes the limited rebate provided that the second sales price does not appear more prominently than the featured sales price or featured savings claim or discount without the limited rebate. Any additional limited rebates may then be displayed outside of the price equations.

Figure: 43 TAC §215.250(j) [§215.250(e)]

(k) If a dealer has added an option that was not obtained from the manufacturer or distributor of the motor vehicle, a savings claim may not be advertised for that vehicle. If a dealer has added an option obtained from the manufacturer or distributor and disclosed that option and its suggested retail price on a dealership addendum, the dealer may advertise a savings claim for that motor vehicle if the option is listed, and the difference is shown between the dealer's sales price and the SRP of the vehicle including the option obtained from the...
manufacturer or distributor.

[(e)] [If a rebate is only available to a selected portion of the public and not the public as a whole, the price should be disclosed as in subsection (e) of this section first and then the nature of the limitation and the amount of the limited rebate may be disclosed.]

[(f)] Advertising an "Internet price," "e-price," or using similar terms that indicate or create the impression that there is a different or unique sales price for an on-line or Internet consumer or transaction is prohibited.]

§215.251. Identification.

(a) When the sales price of a motor vehicle is advertised, the following must be disclosed:

(1) model year;
(2) make;
(3) model line and style or model designation; and
(4) if applicable, whether the motor vehicle is [a] used, a demonstrator, or a factory executive/official vehicle.

(b) Expressions such as "fully equipped," "factory equipped," "loaded," and other such terms shall not be used in any advertisement that contains the sales price of a motor vehicle unless the optional equipment of the motor vehicle is
listed in the advertisement.

(c) A photograph or other representation [An illustration] of a motor vehicle used in an advertisement must be of the motor vehicle being advertised or substantially the same as that of the motor vehicle advertised.

§215.252. Advertising at Cost or Invoice.

(a) The term "dealer's cost" or other reference to the cost of the motor vehicle shall not be used.

(b) The terms [use of the term] "invoice" or "invoice price" in advertising shall not be used.


No guaranteed trade-in amount or range of amounts shall be used in advertising. Additionally, an advertisement shall not state an amount or range of amounts for trade-in assistance or advertise that an offer is any specific amount or range of amounts over blue book value, black book value, or use any other similar language indicating there is an established retail value or starting price point for a used motor vehicle.


A used motor vehicle shall not be advertised in any manner that
creates the impression that it is new. A used motor vehicle
shall be identified as [either] "used" or "pre-owned." Terms
such as "program car," "special purchase," "factory repurchase,"
or other similar terms shall not be used to identify a motor
vehicle as used. [are not sufficient to designate a vehicle as
used, and these vehicles must be identified as "used" or "pre-
owned." ]

§215.255. Demonstrators and Factory Executive/Official Motor
Vehicles. [Factory, Executives/Official Vehicles.] If a demonstrator or factory executive/official motor vehicle is
advertised, the advertisement must clearly and conspicuously
identify the motor vehicle as a demonstrator or factory
executive/official motor vehicle. A demonstrator or factory
executive/official motor [official] vehicle may not be
advertised or sold except by a dealer franchised and licensed to
sell that line-make [line-make] of new motor vehicle.

(a) No merchandise or enticement may be described as "free"
if the:
(1) motor vehicle can be purchased or leased for a
lesser sales price without the merchandise or enticement; or [If
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(2) sales price of the motor vehicle has been increased to cover the cost or any part of the cost of the merchandise or enticement.

(b) The advertisement shall clearly and conspicuously disclose the conditions under which the "free" merchandise or enticement being offered [offer] may be obtained.

§215.257. Authorized Dealer.

The term "authorized dealer" or a similar term shall not be used unless the advertising dealer holds both a franchise and a dealer license to sell the motor [these] vehicles the dealer identifies itself [is holding itself out] as "authorized" to sell.

§215.258. Manufacturer and Distributor Rebates.

It is unlawful for a manufacturer or distributor to advertise any offer of a rebate, interest or finance charge reduction, or other financial inducement or incentive[7] for the benefit of the purchaser of a motor vehicle if the selling dealer contributes in any manner to that incentive program, unless the advertisement discloses that the dealer's contribution may affect the final negotiated sales price of the motor vehicle.
§215.259. Rebate and Financing Rate Advertising by Dealers.

(a) It is unlawful for a dealer to advertise an offer of a manufacturer's or distributor's rebate, interest or finance charge reduction, or other financial inducement or incentive if the dealer contributes to the incentive program, unless such advertising discloses that the dealer's contribution may affect the final negotiated price of the motor vehicle.

(b) An advertisement containing an offer of an interest or finance charge incentive that is paid for or financed by the dealer rather than the manufacturer or distributor shall disclose:

(1) that the dealer pays for or finances the interest or finance charge rate reduction;

(2) the amount of the dealer's contribution in either a dollar or percentage amount; and

(3) that such arrangement may affect the final negotiated price of the motor vehicle.

(c) An offer or promise to pay or to tender cash to a buyer of a motor vehicle, as in a rebate or cash back program, may not be advertised unless the rebate or cash back program is offered and paid in part by the motor vehicle manufacturer or distributor directly to the buyer.
retail purchaser or to the assignee of the retail purchaser and
unless the advertisement sets forth the contribution disclosures
required by this rule.


A vehicle lease advertisement shall clearly and conspicuously disclose that the advertisement
is for the lease of a motor vehicle. Statements such as
"alternative financing plan," "drive away for $ per month," or
other terms or phrases that do not use the term "lease"
["lease,"] do not constitute adequate disclosure of a lease. A
vehicle lease advertisement shall not
contain the phrase "no down payment" or similar words or phrases
if any payment [words of similar import if any outlay of money]
is required to be paid by the customer to lease the motor
vehicle. Vehicle lease terms that are not available to
the general public shall not be included in advertisements
directed at the general public, or all limitations and
qualifications applicable to the vehicle lease terms advertised
shall be clearly and conspicuously disclosed.

$215.261. Manufacturer Sales and Wholesale Prices.

A motor vehicle shall not be advertised for sale in any manner
that creates the impression that it is being offered for sale by
the manufacturer or distributor of the motor vehicle. An
advertisement shall not:

(1) contain terms such as "factory sale," "fleet
prices," "wholesale prices," "factory approved," "factory
sponsored," or "manufacturer sale": ["manufacturer sale,"
(2) use a manufacturer's name or abbreviation in any
manner calculated or likely to create an impression that the
motor vehicle is being offered for sale by the manufacturer or
distributor; [r] or
(3) use any other similar terms which indicate sales
other than retail sales from the dealer.

§215.263. Sales Payment Disclosures.
An advertisement that contains the amount of any payment,
including a down payment[r] in either a percentage or dollar
amount, or an advertisement that contains[r] the amount of any
payment, in either a percentage or dollar amount, the number of
payments[r] the period of repayment[r] or the amount of any
finance charge[r] must include the following:
(1) the amount or percentage of the down payment;
(2) the terms of repayment, from which the number of
months to make repayment and the amount per month can be

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1 determined, [(from which the number of months to make repayment
2 and the amount per month can be determined)] including any
3 balloon payment;
4
5 (3) the annual percentage rate [APR] [(OR APR)]; and
6
7 (4) the amount of the APR [annual percentage rate], if
8 increased, after consummation of the credit transaction.
9


(a) An advertisement that promotes a consumer lease and
contains the amount of any payment or that contains either[→or]
a statement of any capitalized cost reduction or other payment
or a statement [→] that no payment is required [prior to or] at
consummation or prior to consummation or [by] delivery, if
delivery occurs after consummation, must clearly and
conspicuously include the following:

(1) that the transaction advertised is a vehicle
lease;

(2) the total amount due [prior to or] at consummation
or prior to consummation or [by] delivery, if delivery occurs
after consummation;

(3) the number, amount, and due date or period
[amounts, and due dates or periods] of scheduled payments under
the vehicle lease;

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(4) a statement of whether [or not] a security deposit is required; and

(5) a statement that an extra charge may be imposed at the end of the vehicle lease term where the lessee's liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the vehicle lease term.

(b) Except for a periodic payment, a reference to a charge [as] described in subsection (a)(2) of this section[, i.e., to components of the total due at lease signing or delivery] cannot be more prominently advertised than the disclosure of the total amount due at vehicle lease signing or delivery.

(c) Except for disclosures of limitations on rate information, if [If] a percentage rate is advertised, that rate shall not be more prominently advertised [prominent] than any of the following disclosures [stated] in the advertisement[, with the exception of paragraph (19) of this subsection, the notice required to accompany the rate].

(1) Description of payments.
(2) Amount due at vehicle lease signing or delivery.
(3) Payment schedule and total amount of periodic payments.
(4) Other itemized charges that are not included in
the periodic payment. These charges include the amount of any
liability that the vehicle lease imposes upon the lessee at the
end of the vehicle lease term.

(5) Total number of payments.

(6) Payment calculation, including:

(A) gross [Gross] capitalized cost;

(B) capitalized [Capitalized] cost reduction;

(C) adjusted [Adjusted] capitalized cost;

(D) residual value; [Residual value]

(E) depreciation [Depreciation] and any amortized

amounts;

(F) rent charge; [Rent charge]

(G) total [Total] of base periodic payments;

(H) vehicle lease term; [Lease term]

(I) base [Base] periodic payment;

(J) itemization [Itemization] of other charges

that are a part of the periodic payment; and

(K) total [Total] periodic payment.

(7) Early termination conditions and disclosure of

charges.

(8) Maintenance responsibilities.

(9) Purchase option.

(10) Statement referencing nonsegregated disclosures.
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(11) Liability between residual and realized values.
(12) Right of appraisal.
(13) Liability at the end of the vehicle lease term based on residual value.
(14) Fees and taxes.
(15) Insurance.
(16) Warranties or guarantees.
(17) Penalties and other charges for delinquency.
(18) Security interest.

[(19) Limitations on rate information.]

(d) If a vehicle lessor provides a percentage rate in an advertisement, a notice stating [that] "this percentage may not measure the overall cost of financing this lease" shall accompany the rate disclosure. The vehicle lessor shall not use the terms [term] "annual percentage rate," "annual lease rate," or any equivalent terms in any advertisement containing a percentage rate. [term.]

(e) A multi-page advertisement that provides a table or schedule of the required disclosures is considered a single advertisement, provided that for vehicle lease terms appearing [if, for lease terms that appear] without all of the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

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(f) A merchandise tag stating any item listed in subsection (a) of this section must comply with subsection (a)(1) - (5) the disclosures in subsection (a) of this section by referring to a sign or to a display prominently posted in the vehicle lessor's place of business. The sign or display must contain [that contains] a table or schedule of the required disclosures under subsection (a)(1) - (5).

(g) An advertisement made through television or radio stating any item listed in subsection (a) of this section, must include the following statements: [state in the advertisement:] (1) that the transaction advertised is a vehicle lease; (2) the total amount due [prior to or] at consummation or due prior to consummation or [by] delivery, if delivery occurs after consummation; and (3) the number, amount, and due date or period [amounts, and due dates or periods] of scheduled payments under the vehicle lease. [lease; and]

(h) In addition to the requirements of subsection (g)(1) - (3) of this section, an advertisement made through television or radio stating any item listed in subsection (a) of this section, must:

[(4) Either:]

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(1) [(A)] provide a toll-free telephone number along with a statement that the telephone [reference— that— such] number may be used by consumers to obtain the information in subsection (a) of this section. The toll— free telephone number shall be available for no fewer than ten days, beginning on the date of the broadcast and the lessor shall provide the information in subsection (a) of this section orally or in writing upon request]; or

(2) [(B)] direct the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that the required disclosures in subsection (a) of this section are included in the advertisement. [The written advertisement shall be published beginning at least three days before and ending at least 10 days after the broadcast.]

(i) The toll— free telephone number required by subsection (h)(1) of this section shall be available for at least 10 days, beginning on the date of the broadcast. Upon request, the vehicle lessor shall provide the information in subsection (a) of this section orally or in writing.

(j) The written advertisement required by subsection (h)(2) of this section shall be published beginning at least three days
before the broadcast and ending at least 10 days after the
broadcast.

§215.265. Bait Advertisements. [Advertisement-]
Bait advertisements ["Bait" advertisement] shall not be used by
any person.

§215.266. Lowest Price Claims.
(a) Claims that represent a lowest price, best price, best
deal, [Representing a lowest price claim, best price claim, best
deal claim] or other similar superlative claims shall not be
used in advertising.
(b) If a [dealer advertises a] "meet or beat" guarantee is
advertised, then the advertisement must clearly and
conspicuously disclose the conditions and requirements necessary
in order for a person to receive the offer or guarantee. [any
advertised-cash-amount.]

§215.267. Fleet Prices.
Terms such as "fleet prices," "fleet sales," ["fleet prices" or
"fleet sales"] or other terms or phrases implying that
individual retail [implying that retail-individual] customers
will be afforded the same price or [and/or] discount as multi

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purchase commercial businesses shall not be used [in advertising].


[Bankruptcy/Liquidation Sale.]

[No licensee may willingly misrepresent the ownership of a business for the purpose of holding a liquidation sale, auction sale, or other sale which represents that the business is going out of business.] A person who advertises a liquidation sale, auction sale, or going out of business sale shall state the correct name and permanent address of the owner of the business in the advertisement. The phrases [A person may not conduct a sale advertised with the phrase] "going out of business," "closing out," "shutting doors forever," [or] "bankruptcy sale," "foreclosure," [or] "bankruptcy," or similar phrases or words indicating that an enterprise is ceasing business shall not be used unless the business is closing its operations and follows the procedures required by [the] Business and Commerce Code, Chapter 17, Subchapter F.

§215.269. Finding of Violation.

A person shall not [No person shall] be held in violation of the rules, including the general prohibition, except upon a finding

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of a violation of thereof] made by the department [Board] after
the filing of a Notice of Department Decision and [complaint and
notice and] an opportunity to request a [for] hearing as
provided in Occupations Code, Chapter 2301. [the Code.]

§215.270. Enforcement.
(a) The department [Board] may file a Notice of Department
Decision [complaint] against a licensee alleging a violation of
an advertising provision pursuant to Occupations Code,
§2301.203, provided the department [only if the Board] can show:
(1) that the licensee who allegedly violated an
advertising provision has received from the department [Board] a
notice of an opportunity to cure the violation by certified
mail, return receipt requested, in compliance with subsection
(b) of this section [relating to effectiveness of notice]; and
(2) that the licensee committed a subsequent violation
of the same advertising provision.
(b) An effective notice issued under subsection (a)(1) of
this section must:
(1) state that the department [Board] has reason to
believe that the licensee violated an advertising provision and
must identify the provision;
(2) set forth the facts upon which the department
[Board] bases its allegation of a violation; and

(3) state that if the licensee commits a subsequent violation of the same advertising provision, the department [Board] will formally file a Notice of Department Decision.

[citation]

(c) As a part of the cure procedure, the department [Board] may require a licensee[7] who allegedly violated an advertising provision[7] to publish a retraction notice to effect an adequate cure of the alleged violation. A [An adequate] retraction notice must:

(1) appear in a newspaper of general circulation in the area in which the alleged violation occurred;

(2) appear in the [that] portion of the newspaper, if any, devoted to motor vehicle advertising, if any;

(3) identify the date and the medium of publication, print, electronic, or other, in which the advertising alleged to be a violation appeared; and

(4) identify the alleged violation of the advertising provision and contain a statement of correction.

(d) A [Performance of a] cure is made solely for the purpose of settling an allegation and is not an admission of a violation of these rules; Occupations Code, Chapter 2301; [the Code] or other law.

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Terms such as "auction," "auction special," or other terms with similar meaning ["auction" or "auction special" and other terms of similar import] shall be used only in connection with a motor vehicle offered or sold at a bona fide auction.
Figure: 43 TAC §215.250(h)(1) [§215.250(e)(1)]

Dealer Discount with Sales Price:
SRP [MSRP] $20,000
Less Dealer Discount 1,000
Sales Price $19,000

Dealer Discount without Sales Price:
"$1,000 Discount Off SRP"
Figure: 43 TAC §215.250(h)(2) [$215.250(e)(2)]

Customer Rebate with Sales Price:
SRP [Advertised Price] $18,000
Less Rebate 500
Sales Price $17,500

Customer Rebate without Sales Price:
"$500 Rebate Off SRP"
Figure: 43 TAC §215.250(h)(3) [§215.250(e)(3)]

Customer Rebate and Dealer Discount with Sales Price:
SRP [MSRP] $20,000
Less Rebate 500
Less Dealer Discount 500
Sales [Sale] Price $19,000

Customer Rebate and Dealer Discount without Sales Price:
"$1,000 Savings Off SRP ($500 Rebate and $500 Dealer Discount)"
Figure: 43 TAC §215.250(i) [§215.250(d)]

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total [Motor] Vehicle Plus Options</td>
<td>$10,995</td>
</tr>
<tr>
<td>Option Package Discount</td>
<td>1,000</td>
</tr>
<tr>
<td>SRP [MSRP]</td>
<td>9,995</td>
</tr>
<tr>
<td>Less Rebate</td>
<td>500</td>
</tr>
<tr>
<td>Less Dealer Discount</td>
<td>500</td>
</tr>
<tr>
<td><strong>Sales [Sale] Price</strong></td>
<td><strong>$8,995</strong></td>
</tr>
</tbody>
</table>

**Option Package Discount without Sales Price:**
"Total Savings $2,000 ($1,000 Option Package Discount; $500 rebate, and $500 dealer discount off SRP)"
Figure: 43 TAC §215.250(i) [§215.250(e)]

**Limited Rebate with Featured Sales Price:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>SRP (MSRP)</td>
<td>$10,995 [9,995]</td>
</tr>
<tr>
<td>Less Rebate</td>
<td>1000 [500]</td>
</tr>
<tr>
<td>Less Dealer Discount</td>
<td>1000 [500]</td>
</tr>
<tr>
<td><strong>FEATUREED SALES PRICE</strong></td>
<td>$8,995</td>
</tr>
<tr>
<td>[Sale Price]</td>
<td></td>
</tr>
</tbody>
</table>

Texas Residents receive an additional $500 off $8,495

**Limited Rebate with Featured Savings:**

Featured savings available to any and all members of the buying public:

$2,000 DISCOUNT OFF SRP

Savings includes $1,000 rebate and $1,000 dealer discount

Texas resident save an additional $500

[FIRST TIME BUYERS RECEIVE — ADDITIONAL $500 OFF]
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1. SUBCHAPTER I. PRACTICE AND PROCEDURE FOR HEARINGS CONDUCTED BY
   THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

2. §215.301. Purpose and Scope. [Scope and Purpose.]
   (a) This subchapter implements the [The scope and purpose
   of this subchapter is to provide] practice and procedure for
   contested cases [case hearings] under the jurisdiction of the
   department that are conducted by an ALJ under Occupations Code,
   Chapter 2301 and Transportation Code, Chapters 503 and 1000 -
   1005. [a SOAH ALJ under the Codes.]
   (b) A contested case hearing held by an [a SOAH] ALJ shall
   be conducted in accordance with Government Code, Chapter 2001;
   applicable SOAH rules; and board [Board] rules.
   (c) Unless otherwise provided by statute or by this
   chapter, this subchapter governs practice and procedure relating
   to contested cases [matters] filed with the department [Board]
   on or after September 1, 2007.
   (d) Practice and procedure in contested cases filed on or
   after January 1, 2014, under Occupations Code, Chapter 2301,
   Subchapters E or M [Subchapter E or M] are addressed in
   Subchapter B of this chapter (relating to Adjudicative Practice
   and Procedure).


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In the event of a conflict between Occupations Code, Chapter 2301 and Transportation Code, Chapter 503, the definition or procedure referenced in Occupations Code, Chapter 2301 controls.

§215.303. Application of Board and SOAH Rules.

[(a)] Upon referral by the department [Board] of a contested case [matter] to SOAH, the rules contained in 1 TAC Chapter 155 [(relating to Rules of Procedure)] and the provisions of this subchapter, to the extent they are not in conflict with 1 TAC Chapter 155, govern the processing of the contested case [matter] until the ALJ disposes of the contested case. [matter.]

[(b) The ALJ shall consider the rules and policies applicable to the Board in the hearing and preparation of the proposal for decision.]

§215.305. Filing of Complaints, Protests, and Petitions; Mediation.

(a) All complaints, protests, and petitions required or allowed to be filed under Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1000 - 1005; [the Geode] or this chapter must be delivered to the department:
(1) in person;
(2) by first-class mail; or [filed with the appropriate department office in person, by mail, or]
(3) by electronic document transfer at a destination designated by the department. [for receipt of those documents.]
(b) Except as provided by subsections (d), (n), and (o) of this section, parties to a contested case filed under Occupations Code, Chapter 2301 or Transportation Code, Chapters 503 and 1000 - 1005 [case under the Codes] are required to participate in mediation, in accordance with this section, before the case is referred for hearing.
(c) The term "mediation" as used in this section has the meaning assigned by Occupations Code, §2301.521. [means a nonbinding forum in which an impartial mediator facilitates communication between parties to promote reconciliation, settlement, or resolution among the parties.]
(d) This section does not limit the parties' ability to settle a case without mediation.
(e) The department shall provide mediation services.
(f) The mediator shall qualify for appointment as an impartial third party in accordance with Civil Practice and Remedies Code, Chapter 154.
(g) The mediation process will conclude within 60 days of

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the date a contested case [matter] is assigned to a mediator
unless, at the department's discretion, the mediation deadline
is extended.

(h) The department will assign [appoint] a different
mediator if:

(1) either [Either] party promptly and with good cause
objects to an assigned mediator; or

(2) an [An] assigned mediator is recused.

(i) At any time before a contested case is referred for
hearing, the parties may file a joint notice of intent to retain
an outside [a-private] mediator. The notice must include:

(1) the name, address, email address [e-mail],
facsimile number, and telephone number of the outside [private]
mediator selected;

(2) a statement that the parties have entered into an
agreement with the outside [private] mediator regarding the
mediator's rate and method of compensation;

(3) an affirmation that the outside mediator qualifies
for appointment as an impartial third party in accordance with
Civil Practice and Remedies Code, Chapter 154; and

(4) a statement that the mediation will conclude
within 60 days of the date of the joint notice of retention
unless, at the department's discretion, the mediation deadline

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is extended.

(j) All communications in a mediation are confidential and subject to the provisions of the Governmental Dispute Resolution Act, Government Code, §2009.054.

(k) Agreements reached by the parties in mediation shall be reduced to writing by the mediator and signed by the parties before the mediation concludes or as soon as practical.

(l) Within 10 days of the conclusion of the mediation period, a mediator shall provide to the department and to the parties a written report stating:

(1) whether the parties attended the mediation;
(2) whether the matter settled in part or in whole;
(3) any unresolved issues; and
(4) any other stipulations or matters the parties agree to report.

(m) Upon receipt of the mediator's report required under this section, the department shall:

(1) enter an order [identifying and] disposing of resolved issues; and
(2) refer unresolved issues for hearing.

(n) Parties to a contested case filed as an enforcement action brought by the department are not required to participate.
in mediation.

(o) Parties to a contested case filed under Occupations Code, §2301.204 or §§2301.601 - 2301.613, must participate in mediation in accordance with §215.205 of this title [chapter] (relating to Mediation; Settlement).

§215.306. Referral to SOAH.

Contested cases [Matters] shall be referred to SOAH upon determination that a hearing is appropriate under Occupations Code, Chapter 2301, Subchapter O; Transportation Code, Chapter 503; or this chapter, including contested cases [matters] relating to:

(1) an enforcement complaint on the department's own initiative;

(2) a notice of protest[.] that has been timely filed in accordance with §215.106 of this title [chapter] (relating to Time for Filing Protest);

[(3) a complaint under Occupations Code, §2301.204 or §§2301.601-2301.613, that satisfies the jurisdictional requirements of the applicable provisions filed on and after September 1, 2007, and before January 1, 2014,]

(3)[(4)] a protest filed under Occupations Code, §2301.360 or a complaint or protest filed under Occupations

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Code, Chapter 2301, Subchapters I or J; [Subchapter I or
Subchapter J];

(4) [4+] issuance of a cease and desist order, whether
the order is issued with or without prior notice at the time the
order takes effect; or

(5) [5+] any other contested matter that meets [matter
meeting] the requirements for a hearing at SOAH under
Occupations Code, Chapter 2301.


(a) The requirements for a notice of hearing in a contested
case are provided by Government Code, §2001.052; [are set out
and 1 TAC §155.401 [(relating to Notice of Hearing)], as
applicable.

(b) For service of parties outside of the United States, in
addition to service under Occupations Code, §2301.265, the
department may serve a notice of hearing by any method allowed
under [by] Texas Rules of Civil Procedure, Rule 108a(1)[7] or
that provides for confirmation of delivery to the party.

(c) The last known address of a license holder is the
mailing address provided to the department when the license
holder applies for or renews its license.

(a) On or before the 20th day after a notice of hearing has been served on a party in a contested case [matter] referred by the department to SOAH, the party may file a written reply or pleading responding to all allegations. The written reply or responsive pleading must be filed with SOAH in accordance with 1 TAC §155.101 [(relating to Filing Documents)] and must identify the SOAH and department docket numbers [docket number] as reflected on the notice of hearing.

(b) Any party filing a reply or responsive pleading shall serve a copy of the reply or responsive pleading on each party or party's representative [provide service of copies of the reply or pleadings to other parties] in compliance with 1 TAC §155.103 [(relating to Service of Documents on Parties)]. Any party filing a reply or responsive pleading shall also provide a copy to the department. The presumed time of receipt of served documents is subject to 1 TAC §155.103.

(c) A party may file an amended or supplemental [amend or supplement its] reply or responsive pleading [pleadings] in accordance with 1 TAC §155.301 [(relating to Required Form of Pleadings)].

(d) If a party properly noticed under this chapter does not
appear at the hearing, another party may request that the ALJ dismiss the contested case from the SOAH docket. If the contested case is dismissed from the SOAH docket, the case may [matter and if dismissed the case can] be presented to the board [Board] for disposition based on the default pursuant to 1 TAC §155.501. The board [(relating to Default Proceedings). The board] may enter a final order finding [with findings] that the allegations in the petition are deemed admitted and granting relief in accordance with applicable law. No later than 10 days after the hearing date, if a final order has not been issued, a party may file a motion with the board [Board] to set aside the [a] default and reopen the record. The board [Board], for good cause shown, may grant the motion, set aside the default, and refer the case back to SOAH for further proceedings.


(a) All recommendations or proposals for decision prepared by the ALJ shall [will] be submitted to the board [Board] and copies furnished to the parties.

(b) All decisions and orders issued by the board shall [Board will] be furnished to the parties and to the ALJ.
§215.311. Amicus Briefs.

(a) Any interested person may submit an amicus brief for consideration by the board in a contested case by the deadline for exceptions under 1 TAC §155.301. A party may submit one written response to the amicus brief no later than the deadline for replies to exceptions under 1 TAC §155.301.

(b) Amicus briefs and responses to amicus briefs must be submitted to the board and the ALJ, and copies must be served on all parties. [must be filed with the Board, the ALJ, and all parties to the proceeding.]

(c) Any amicus brief, or response to that brief, not submitted to the board and the ALJ within the deadlines prescribed by subsection (a) of this section will not be considered by the board, unless good cause is shown why the deadline should be waived or extended.

(d) The ALJ may amend the proposal for decision in response to any amicus brief or response to an amicus brief.
violating any provision of Occupations Code, Chapter 2301[17] or a board rule or order, [or a Board rule or order, the ALJ may enter] an order requiring the person to cease and desist from the violation may be entered.

(b) If it appears from specific facts shown by affidavit or by verified complaint that one or more of the conditions enumerated in Occupations Code, §2301.802(b) will occur before notice can be served and a hearing held, the order may be issued without notice; otherwise, the order must be issued after a hearing has been held to determine the validity of the order and to allow the person who requested the order to show good cause why the order should remain in effect during the pendency of the contested case. [Otherwise it must be issued subject to a notice of hearing to determine the validity of the order.]

(c) Each [A] cease and desist order issued without notice must include:

(1) the date and hour of issuance;

(2) a statement of which of the conditions enumerated in Occupations Code, §2301.802(b) will occur before notice can be served and a hearing held; and

(3) a notice of hearing for the earliest date possible to determine the validity of the order and to allow the person who requested the order to show good cause why the order should remain in effect during the pendency of the contested case.
remain in effect during the pendency of the contested case.

(d) Each [A] cease and desist order shall: [issued with or without notice must:]

(1) state [set out] the reasons for its issuance; and

(2) describe in reasonable detail[, and not by reference to the complaint or other document,] the act or acts [sought] to be restrained.

(e) A cease and desist order shall not be issued unless the person requesting the order presents a petition or complaint, verified by affidavit, containing a plain [and intelligible]

statement of the grounds for seeking the cease and desist order.

(f) A cease and desist order issued without notice expires as provided in the order, but shall not exceed 20 days.

(g) A cease and desist order may be extended for a period of time equal to the period of time granted in the original order if, [if] prior to the expiration of the previous order, good cause is shown for the extension or the party against whom the order is directed consents to the extension. [No more than one extension may be granted unless subsequent extensions are unopposed.]

(h) The person against whom a cease and desist order was
issued without notice may request that the scheduled hearing be
held earlier than the date set in the order.

(i) After the hearing, the ALJ shall prepare a written
order, including a [reasoned] justification[7] explaining why
the cease and desist order should remain in place during the
pendency of the contested case. [proceeding-]

(j) A party may appeal to the board [Board] an order
granting or denying a motion for a cease and desist order.

(k) An appeal of an order granting or denying a motion for
a cease and desist order [the interlocutory decision] must be
made to the board [Board] before a person may seek judicial
review of an order issued under this section. [An interlocutory
decision is sufficient for a complaining party to seek judicial
review of the matter.]

(l) Upon appeal to a district court of an order issued
under this section [to the district court, as provided in the
Code], the order may be stayed by the board [Board] upon a
showing of good cause by a party [of interest].

(m) Prior to the commencement of a proceeding by SOAH, the
director is authorized to issue a cease and desist order under
this section. An ALJ shall hold a hearing to determine whether
an interlocutory cease and desist order should remain in effect
during the pendency of the proceeding.
Section 215.315. Statutory Stay.

(a) A person affected by a statutory stay imposed by Occupations Code, Chapter 2301 may request a hearing before an ALJ to modify, vacate, or clarify the extent and application of the statutory stay.

(b) After a hearing on a motion to modify, vacate, or clarify a statutory stay, the ALJ shall expeditiously prepare a written order, including a justification explaining why the statutory stay should or should not be modified, vacated, or clarified.

(c) A person affected by a statutory stay imposed by Occupations Code, Chapter 2301 may initiate a proceeding before the board to modify, vacate, or clarify the extent and application of the statutory stay.

Section 215.316. Informal Disposition.

(a) Notwithstanding any other provision in this subchapter, at any time during the contested case, the board may informally dispose of a contested case by stipulation, agreed settlement, dismissal, or consent order.

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(b) If the parties have settled or otherwise determined that a contested case proceeding is not required, the party who brought the protest, complaint, or petition shall file a motion to dismiss the contested case proceeding from SOAH's docket and present a proposed agreed order or dismissal order to the board. [Board for consideration.]

(c) Agreed orders must contain proposed findings of fact and conclusions of law that are signed by all [the] parties or their authorized [designated] representatives.

(d) Upon receipt of the agreed order, the board [Board] may:

(1) adopt the settlement agreement and issue a final order;

(2) reject the settlement agreement and remand the contested case for a hearing before SOAH; or

(3) take other action that the board [Board] finds just.

§215.317. Motion for Rehearing.

(a) A motion for rehearing and any reply to a motion for rehearing will be processed in accordance with Government Code, Chapter 2001.

(b) For an order issued by the board [Board], a motion for
rehearing and reply to a motion for rehearing must be filed with
the department and decided by the board [Board] unless the
board [Board] specifically delegates motion for rehearing
authority.

(c) For an order issued by a board delegate [director
authorized directly by law, rather than through delegated
authority], a motion for rehearing and reply to a motion for
rehearing must be filed with the department and decided by the
board delegate who [director that] issued the order.

(d) The requirements for a motion for rehearing regarding a
complaint filed on or after January 1, 2014, under Occupations
Code, §2301.204 or §§2301.601 - 2301.613[r] are governed by
$215.207 of this title [chapter] (relating to Contested Cases:
Final Orders).

[(c) This section in no way precludes delegation by the
Board or executive director under the Codes.]
SUBCHAPTER J. ADMINISTRATIVE SANCTIONS


(a) An administrative sanction may include:

(1) denial of an application for a license;

(2) suspension of a license;

(3) revocation of a license; or

(4) the imposition of civil penalties.

(b) The department shall issue and mail a Notice of Department Decision to a license applicant, license holder, or other person by certified mail, return receipt requested, to the last known address upon a determination under Occupations Code, Chapters 2301 and 2302 or Transportation Code, Chapter 503 that:

(1) an application for a license should be denied; or

(2) administrative sanctions should be imposed.

(c) The last known address of a license holder is the mailing address provided to the department when the license holder applies for or renews its license.

(d) The Notice of Department Decision shall include:

(1) a statement describing the department decision and...
the [its] effective date;

(2) a description of each alleged violation[ , if
applicable];

(3) a description of each administrative sanction
being proposed;

(4) a statement regarding [as to] the legal basis for
each administrative sanction;

(5) a statement regarding [as to the right of] the
license applicant, license holder, or other person's right to
request a hearing; [or the licensee to request an administrative
hearing]}

(6) the procedure to request a [a statement as to the
procedure for requesting an administrative] hearing, including
the deadline for filing [period during which a request must be
received by the department]; and

(7) notice to the license applicant, license holder,
or other person [a statement] that the proposed decision and
administrative sanctions [specified] in the Notice of Department
Decision will become final on the date specified if the license
applicant, license holder, or other person [or the licensee]
fails to timely request a hearing.

(e)[(d)] The license applicant, license holder, or other
person must submit, in writing, a request for a [A request for
an administrative hearing under this section. The department must receive a request for a hearing [must be made in writing and received by the department] within 26 days of the date of the Notice of Department Decision [is mailed by the department].

(f) [If the department receives a timely request for a hearing, [If a request for an administrative hearing is timely received,] the department will set a hearing date and give notice to the license applicant, license holder, or other person [or the licensee] of the date, time, and location of the hearing, [where it will be held. The hearing shall be conducted under the provisions set forth in this chapter by an administrative law judge of the State Office of Administrative Hearings.]

(g) [If the license applicant, license holder, or other person [or the licensee] does not make a timely request for a [an administrative] hearing or enter into a settlement agreement within 27 days of the date of [before the 27th day after the date] the Notice of Department Decision, the department [is mailed the department's] decision becomes final.


(a) If a department decision becomes final under a Notice of Department Decision issued under §215.500 of this title
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(relating to Administrative Sanctions and Procedures), the
matter will be forwarded to the [department or] final order
authority for issuance of [shall issue] a final order
incorporating the decisions, findings, and administrative
sanctions imposed by the Notice of Department Decision. The
department will send a copy of the final order to the parties.

(b) The provisions of Government Code, Chapter 2001,
Subchapter F govern: [(Administrative Procedure Act), Subchapter
F (Contested Cases: Final Decisions and Orders; Motions for
Rehearing) govern]

(1) the issuance of a final order issued under this
subchapter; and

(2) motions for rehearing filed in response to a final
order. [therefore]

The provisions of Government Code, Chapter 2001, Subchapter G
[(Administrative Procedure Act), Subchapter G (Contested Cases:
Judicial Review)] govern the appeal of a final order issued
under this subchapter.

§215.503. Refund of Fees.

In the absence of director approval, the [the] department will
not refund a fee paid by a license applicant, license holder, or other person if: [or a licensee if]

(1) the application or license is:

(A) denied;

(B) suspended;

(C) revoked; or [under this subchapter]

(2) the license applicant, license holder, or other person is subject to an unpaid civil penalty imposed against the license applicant, license holder, or other person by a final order.
SUBCHAPTER A. GENERAL PROVISIONS

§215.3. Duties and Powers of Board. In accordance with the Codes, the Board shall:

(1) enforce and administer the Codes;

(2) establish the qualifications of license holders;

(3) ensure that the distribution, sale, and lease of motor vehicles is conducted as required by the Codes and this chapter;

(4) provide for compliance with warranties;

(5) prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles.

§215.4. Formal Opinions.

(a) General. Any person may request a formal opinion from the Board on any matter within the jurisdiction of Occupations Code, Chapter 2301, or Transportation Code, Chapters 503 and 1000 through 1005. It is the policy of the Board to consider requests for formal opinions and, where practicable, to inform the requesting party of the Board's views; provided, however, that a request will be considered inappropriate for a formal opinion where the request involves a matter which is under
investigation or is the subject of a current proceeding by the Board or another governmental agency, or where the request is such that an informed opinion thereon can be given only after extensive investigation, research, or collateral inquiry.

(b) Procedure. Requests for formal opinions are to be submitted to the Board in writing and shall include full and complete information on the matter with respect to which the formal opinion is requested. The request must affirmatively state that the matter involved is not the subject of an investigation or other proceeding by the Board or any other governmental agency. The submission of additional information may be required by the Board.

(c) Formal opinions rendered without prejudice. Any formal opinion so given is without prejudice to the right of the Board to reconsider the matter and, where the public interest requires, to modify or revoke a previously issued formal opinion. Notice of such modification or revocation will be given to the party who originally requested the opinion so that the requestor may modify or discontinue any action which may have been taken pursuant to the Board's formal opinion. The Department will not proceed against such party with respect to any action taken in good faith reliance upon the Board's formal opinion.
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opinion where all relevant facts were fully, completely, and accurately presented to the Board and where such action was promptly discontinued or appropriately modified upon notification of the Board's modification or revocation of the formal opinion.

(d) Publication. Texts or digests of formal opinions of general interest will be made available to any person upon written request to the Department, subject to statutory and other restrictions against disclosure.

$215.5. Informal Opinions. Any other advice, opinion, or information received from the Department or its staff in response to an inquiry is not a formal opinion of the Board and shall be considered an informal opinion. No informal opinion, whether written or oral, by the director, or any Department employee will be binding upon the Board in any subsequent proceeding involving the same or similar issue.


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SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE

§215.25. Affidavits. Whenever it may be necessary or proper for any party to make an affidavit, it may be made either by such party or by his authorized agent; provided, however, that the affidavit of any such agent must show the relationship of the agent to the party and state in what capacity he is authorized to make the affidavit. All affidavits shall affirmatively show that the affiant has personal knowledge of the matters sworn.

§215.26. Form of Petitions, Pleadings, and the Like. The original copy of every petition, pleading, motion, brief, or other instrument permitted or required to be filed with the appropriate department office in a contested case proceeding shall be signed by the party in interest, the attorney of record, or authorized representative. All pleadings filed in any proceeding shall be printed or typed on 8-1/2 inch by 11 inch paper in no smaller than 11 point type with margins of at least one inch at the top, bottom, and each side. Pages shall be numbered in the 1 inch margin at the bottom of each page. All text except block quotations and footnotes shall be double spaced.
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§215.28. Docket. The department will maintain a docket containing a record of all proceedings instituted. The docket shall be a public file and shall be open for inspection at all reasonable times. An alpha-numeric identifier assigned by the department to any proceeding will be carried forward throughout the proceeding.

§215.31. Cease and Desist Orders.
(a) Whenever it appears to the Board that any person is violating any provision of the Codes or this chapter, the Board may, directly or through its representative, enter an interlocutory order requiring such person to cease and desist.

(1) No interlocutory cease and desist order shall be granted without notice to the person against whom the order is requested unless it clearly appears from specific facts shown by affidavit or by the verified complaint that one or more of the situations enumerated in Occupations Code, §2301.802(b)(1)-(5) will occur before notice can be served and a hearing had thereon;

(2) Every interlocutory cease and desist order granted without notice shall include the date and hour of issuance; shall state which of the situations enumerated in Occupations
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1 Code, §2301.802(b)(1)-(5) is found to necessitate the issuance
2 of the order without notice; and shall set a date certain for a
3 hearing as provided in these rules relating to adjudicative
4 proceedings to determine the validity of the order and to allow
5 the person against whom the order is issued to show good cause
6 why the order should not remain in effect during the pendency of
7 the proceeding;
8
9 (3) The person against whom the interlocutory cease
10 and desist order has been issued without notice may request that
11 the hearing to determine the validity of the order be held
12 earlier than the date set by the order;
13
14 (4) Every cease and desist order granted with or
15 without notice shall set forth the reasons for its issuance;
16 shall be specific in terms; shall describe in reasonable detail
17 and not by reference to the complaint or other document the act
18 or acts sought to be restrained;
19
20 (5) No cease and desist order, whether interlocutory
21 or permanent, shall be granted unless the person requesting the
22 order presents to the Board a petition or complaint verified by
23 affidavit and containing a plain and intelligible statement of
24 the grounds for such relief.
25
26 (b) The interlocutory decision on a request for cease and
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1 desist order shall be sufficient for a complaining party to seek
2 judicial review of the matter as set out in Occupations Code,
3 §2301.802(c)-(e). Upon appeal of an order issued pursuant to
4 this subsection to the district court, as provided in the Code,
5 the order may be stayed by the Board upon a showing of good
6 cause by a party of interest.

7
8 §215.33. Expenses of Witness or Depoent. A witness or deponent
9 in a contested case who is not a party and who is subpoenaed or
10 otherwise compelled to attend a hearing or proceeding to give
11 testimony or a deposition or to produce books, records, papers,
12 or other objects that may be necessary and proper for the
13 purposes of a proceeding under the Codes is entitled to receive
14 expenses pursuant to provisions of the Government Code, Chapter
15 2001. Such witness or deponent is entitled to receive
16 reimbursement for mileage at the current state employee rate for
17 each mile, for going to and returning from the place of the
18 hearing or deposition, if the place is more than 25 miles from
19 the person's place of residence and the person uses a personally
20 owned or leased motor vehicle for the travel.

21
22 §215.50. Submission. Adjudicative proceedings will be deemed

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submitted to the hearing officer as soon as the hearing and
record are completed and briefs, if any, are filed. At the
discretion of the hearing officer, parties or their attorneys,
in lieu of oral closing arguments or closing statements at the
conclusion of an adjudicative proceeding, shall file a written
summation or brief containing the statements, arguments and
conclusions, together with references to supporting authorities,
which might normally be presented orally at the conclusion of
such hearing. A schedule for submission of written closing
summations or briefs will be established by the hearing officer
at the conclusion of the hearing on the merits.

§215.51. Findings and Recommendations of Hearing Officer.

(a) This section applies to contested cases in which the
hearing officer does not issue a final order or does not have
final order authority.

(b) As soon as practicable after the conclusion of the
contested case proceeding, the hearing officer shall prepare and
file with the Board a copy of the hearing officer's proposal for
decision, including findings of fact, conclusions of law, and
recommendation. A copy of this proposal for decision shall be
served by the hearing officer upon all parties or their lead

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1 counsel.

2

3 §215.52. Filing of Exceptions. Any party in interest may file
4 exceptions to the proposal for decision within 20 days after the
5 date of service of the proposal for decision on that party.
6 Requests for extension of time to file exceptions shall be filed
7 with the hearing officer and a copy shall be served on all other
8 parties and on the department. The hearing officer shall
9 promptly notify the parties of a ruling on the request and shall
10 allow additional time only in extraordinary circumstances. In a
11 contested case where the hearing officer has final order
12 authority, a final order will be issued without a proposal for
13 decision, exceptions, or replies to exceptions.
14
15 §215.53. Form of Exceptions. Exceptions to findings of fact,
16 conclusions of law, or to any other matters of law in a proposal
17 for decision shall be specific and shall be stated and numbered
18 separately. When exception is taken to a statement of fact,
19 specific reference must be made to the evidence relied upon to
20 assert error and the party must suggest a correction. When
21 exception is taken to a particular finding or conclusion,
22 whether of fact, law, or a mixed question of fact and law,
specific reference must be made to the evidence, if any, and the law relied upon to assert error.

§215.54. Replies to Exceptions. Replies to exceptions may be filed within 10 days after the date of filing those exceptions. It is within the hearing officer's discretion, upon notice to all parties in interest, to extend the time for filing such reply. No further written responses or replies are allowed.

§215.57. Format for Documents Filed with the Board Subsequent to the Issuance of a Proposal for Decision.

(a) The total number of pages of a party's exceptions to proposals for decision and motions for rehearing must not exceed the total number of pages of the proposal for decision, and the total number of pages of a party's replies to exceptions and replies to motions for rehearing must not exceed three-fourths of the total number of pages of the proposal for decision, exclusive of pages containing the cover, index, table of authority, and attachments. The total number of pages of amicus briefs must not exceed three-fourths of the total number of pages of the proposal for decision, exclusive of pages containing the cover, index, table of authority, and
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1 attachments. In no event, such as when the proposal for decision
2 is less than 15 pages, will this rule be construed to limit the
3 length of a party's exception to a proposal for decision, motion
4 for rehearing, or response thereto, to less than 10 pages.
5
6 (b) Exceptions, motions for rehearing, replies to
7 exceptions, replies to motions for rehearing, and amicus briefs
8 shall be printed on 8 1/2 inch by 11 inch paper in no smaller
9 than 11 point type with margins of at least one inch at the top, bottom, and each side. Pages shall be numbered in the 1 inch
10 margin at the bottom of each page. All text except block
11 quotations and footnotes shall be double spaced.
12
13 (c) Where applicable, when the exceptions, motions for
14 rehearing, replies to exceptions, and replies to motions for
15 rehearing refer to facts or testimony from the evidentiary
16 record, these statements must be followed by a reference to the
17 specific exhibit or page number in the transcript where the fact
18 or testimony is found.
19
20 (d) Each party or interested person shall file an original
21 and three copies of its exceptions, motions for rehearing,
22 replies to exceptions, replies to motions for rehearing, and
23 amicus briefs.
24
25 (e) Other than document length, the requirements in
subsections (a)-(d) of this section are not to be strictly
construed in cases brought under Occupations Code, §§2301.601-
2301.613 (the Lemon Law) and §2301.204 (warranty performance) or
where a party appears pro se.

(f) The hearing officer or Board has the sole right to
examine and determine whether documents meet the requirements of
this section. If a document fails to meet the requirements of
this section, the hearing officer or Board has the discretion to
accept the document as written, consider only those pages which
meet the requirements of this section, or direct the party to
make whatever modifications necessary to substantially conform
the document to the requirements of this section. No motion or
request to strike a document for failure to meet the
requirements of subsections (a)-(d) of this section will be
considered by the hearing officer or Board.

SUBCHAPTER C. LICENSES, GENERALLY

§215.86. Processing of License Applications, Amendments, or
Renewals.

(a) Any application submitted to the department for a new
license, license amendment, or license renewal must conform to
the requirements in paragraphs (1) and (2) of this subsection.

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(1) An application for a license, an amendment of a
license, or a renewal of license will be processed only if filed
by:

(A) the applicant;

(B) the licensee; or

(C) an authorized representative of the applicant
or licensee who is an employee, an unpaid agent, a licensed
attorney, or certified public accountant; and

(2) Application, amendment, or renewal fees paid by
check, credit or debit card, or electronic transfer, must be
drawn from an account held by the applicant, licensee, or from a
trust account of the applicant's attorney or certified public
accountant.

(b) Information concerning the status of an application,
application deficiencies, or new license numbers will not be
provided telephonically to license purveyors.

(c) An authorized representative of the applicant or
licensee that files an application with the department may be
required to provide written proof of authority to act on behalf
of an applicant or licensee.

(d) An application for a license, amendment, or renewal of
license filed with the department must be complete. To be
complete, an application must include all information and
documentation required by the department. If the applicant or
licensee does not provide the required information or
documentation, the department will issue a written notice of
deficiency. The department must receive the information or
documentation not later than 20 calendar days from the issuance
of a written notice of deficiency, unless the department issues
a written extension of time. If the applicant fails to respond
or fails to fully comply with all deficiencies listed in the
written notice of deficiency within this time period, the
processing of the application will be deemed withdrawn and the
application will be administratively closed.

(e) Once the department receives a complete application for
a new license, amendment, or renewal of license, the department
will evaluate the application with applicable rules and statutes
to determine approval or denial. If it is determined that there
are grounds for denial of the application, a petition and notice
of hearing to be held before the State Office of Administrative
Hearings will be issued and sent to the applicant. The applicant
may withdraw the application prior to the issuance of a final
order.

(f) The department will process a license, amendment, or
renewal application submitted for licensing of a military
service member, military spouse, or military veteran in
accordance with Occupations Code, Chapter 55.

SUBCHAPTER D. FRANCHISED DEALERS, MANUFACTURERS,
DISTRIBUTORS, AND CONVERTERS

§215.107. Hearing. Upon receipt of a notice of protest, timely
filed in accordance with the provisions of §215.106 of this
title (relating to Time for Filing Protest), the division shall
promptly set a public hearing for the taking of evidence and for
the consideration of the matters set forth in Occupations Code,
Chapter 2301.

SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

§215.136. Off-site Sales. Unless otherwise authorized by
statute, a dealer is not permitted under Transportation Code,
§503.001 et seq. to sell or offer for sale vehicles from a
location other than an established and permanent place of
business which has been approved by the division and for which a
general distinguishing number has been issued to that dealer.

§215.142. GDN Sanction and Qualification Hearing.
(a) The department may investigate all relevant matters and
the Board or division may initiate a formal administrative
hearing pursuant to Occupations Code, §§2301.701-2301.713, and
Transportation Code, §503.009, and Subchapter B of this chapter
(relating to Adjudicative Practice and Procedure), concerning
contested cases before the Board, to determine any of the
following matters:

(1) whether a licensee has violated any provision of
this subchapter or Transportation Code, §503.001 et seq.;

(2) the amount of the civil penalty to be assessed, if
any, from not less than $50 up to $1,000 for each alleged
violation of the provisions of this subchapter or Transportation
Code, §503.001 et seq.;

(3) whether the licensee's general distinguishing
number should be canceled or suspended; and

(4) whether an application for a new general
distinguishing number, or the renewal of a general distinguishing
number should be denied.

(b) For purposes of assessing a civil penalties under this
section, each act in violation of any provision of this
subchapter or Transportation Code, §503.001 et seq. is a
separate violation, and each day of a continuing violation is a
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1 separate violation.
2
3 (c) Notice of any hearing initiated under subsection (a) of
4 this section may be waived by any person.
5
6 §215.143. Manufacturers License Plates.
7 (a) Manufacturers that distribute, manufacture, or assemble
8 new vehicles may apply for and secure manufacturers license
9 plates for display on unregistered vehicles.
10 (b) Manufacturers license plates must be used exclusively
11 for the purpose of testing such vehicles or loaning a vehicle to
12 a consumer in accordance with Occupations Code, §§2301.601-
13 2301.613.
14
15 SUBCHAPTER F. LESSORS AND LEASE FACILITATORS
16
17 §215.142. Definitions. The following words and terms, when used
18 in this subchapter, shall have the following meanings, unless
19 the context clearly indicates otherwise.
20
21 (1) Motor vehicle lease—A transfer of the right to
22 possession and use of a motor vehicle for a term in excess of
23 180 days, in return for consideration.
24
25 (2) Motor vehicle lease facilitator—A person, other
26 than a franchised dealer or a bona fide employee of a dealer, or

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a vehicle lessor or a bona fide employee of a vehicle lessor,
who:

(A) holds himself out to any person as a "motor
vehicle leasing company" or "motor vehicle leasing agent" or
uses a similar title, for the purpose of soliciting or procuring
a person to enter into a contract or agreement to become the
lessee of a vehicle that is not, and will not be, titled in the
name of and registered to the lease facilitator; or

(B) otherwise solicits a person to enter into a
contract or agreement to become a lessee of a vehicle that is
not, and will not be, titled in the name of and registered to
the lease facilitator, or who is otherwise engaged in the
business of securing lessees or prospective lessees of motor
vehicles that are not, and will not be, titled in the name of
and registered to the facilitator.

(3) Motor vehicle lessor--A person who, pursuant to
the terms of a lease, transfers to another person the right to
possession and use of a motor vehicle titled in the name of the
lessor.

SUBCHAPTER H. ADVERTISING

§215.262. Savings Claims; Discounts.
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(a) A savings claim or discount offer is prohibited except to advertise a new motor vehicle, and the advertisement must show the difference between the dealer's sale price and the manufacturer's, distributor's or converter's total suggested list or retail price.

(1) If a savings claim or discount offer includes only a dealer discount, the advertisement shall disclose that the discount is from the MSRP. The following is an acceptable format for advertising a dealer discount: "$2,000 discount off MSRP".

(2) A savings claim or discount offer that includes a manufacturer's customer rebate must disclose the amount of the rebate as well as the amount of the dealer's discount. The following is an acceptable format for advertising a savings claim with a rebate and a dealer discount: "$2,000 savings off MSRP ($1,500 dealer discount and $500 rebate.)"

(3) If a savings claim discloses a manufacturer's option package discount, then that discount must be disclosed prior to the discount off MSRP. The savings claim shall be advertised as a total savings. The following is an acceptable format for advertising a total savings claim: "Total Savings $3,000 ($1,000 option package discount, $1,500 dealer discount off MSRP, and $500 rebate.)"
(b) The featured savings claim or discount offer for a new motor vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.

(c) If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle. If a dealer has added an option obtained from the manufacturer or distributor of the motor vehicle and disclosed the option and its factory suggested retail price on a dealership addendum, the dealer may advertise a savings claim on that vehicle as long as the option is listed, and the difference is shown between the dealer's sale price and the factory suggested retail price of the vehicle including the factory available option.

(d) Statements such as "up to," "as much as," "from," shall not be used in connection with savings or discount claims.

(e) No person may advertise a savings claim or discount offer on used motor vehicles.

SUBCHAPTER I. PRACTICE AND PROCEDURE FOR HEARINGS CONDUCTED BY THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

§215.309. Recording and Transcriptions of Hearing Costs.
Texas Department of Motor Vehicles
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1  (a) Hearings in a contested case proceeding referred by the
department to SOAH will be transcribed by a court reporter or
recorded electronically at the discretion of the ALJ under 1 TAC
§155.423 (relating to Making a Record of the Proceeding).

(b) In a contested case in which the proceeding is
transcribed by a court reporter, the costs for transcribing the
proceeding and for preparation of an original transcript of the
record for the Board or department will be assessed equally
among all parties to the proceeding, unless otherwise directed
by the Board or department.

(c) On the written request by a party to a case, written
transcripts from the recording of all or part of the proceedings
shall be prepared for the requester and for the Board or
department. The cost of the transcripts shall be paid by the
requesting party. This section does not preclude the parties
from agreeing to share the costs of preparing a transcript.

(d) Copies of recordings of a hearing will be provided to
any party upon written request and payment of the cost of the
recordings.

(e) If a final decision is appealed to the court and if the
department is required to transmit to the court all or a part of
the original record or a certified copy of the record, the

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appealing party shall pay the costs of preparation of the record 
unless those costs are waived by the Board or department.

§215.312. Discovery.

(a) At the written request of a party, the ALJ will issue a 
written commission directed to officers authorized by statute to 
take a deposition of a witness.

(b) At the written request of a party, the ALJ will issue a 
subpoena for the production of documents. The written request 
must identify the documents with as much detail as possible and 
must include a statement of the documents' relevance to the 
issues in the case.

(c) At the written request of a party, the ALJ will issue a 
subpoena for the attendance of a witness at a hearing in a 
contested case. The subpoena may be directed to any person 
within the department's jurisdiction, without regard to the 
distance between the location of the witness and the location of 
the hearing.

(d) If a dispute arises concerning the validity or 
necessity of a subpoena or commission to take deposition, the 
dispute will be presented to the ALJ for hearing and ruling.
§215.313. Official Notice of Records. Documents or information in the department's files may be officially noticed and may be admitted and considered by the ALJ, as described in Government Code, Chapter 2001.
Board Policy Documents

Governance Process (10/13/11)

Strategic Planning (10/13/11)

Board Vision (10/13/11)

Agency Boundaries (9/13/12)

KPIs (9/12/14)
Texas Department of Motor Vehicles
TxDMV Board Governance Policy

1. PURPOSE

The directives presented in this policy address board governance of the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. The TxDMV Board Governance Policy shall be one that is comprehensive and pioneering in its scope.

3. POLICY

3.1. TxDMV Board Governing Style

The Board shall govern according to the following general principles: (a) a vision for the agency, (b) diversity in points of view, (c) strategic leadership, providing day-to-day detail as necessary to achieve the agency vision, (d) clear distinction of Board and Executive Director roles, (e) collective decision making, (f) react proactively rather than reactively and with a strategic approach. Accordingly:

3.1.1. The Board shall provide strategic leadership to TxDMV. In order to do this, the Board shall:

3.1.1.1. Be proactive and visionary in its thinking.

3.1.1.2. Encourage thoughtful deliberation, incorporating a diversity of viewpoints.

3.1.1.3. Work together as colleagues, encouraging mutual support and good humor.

3.1.1.4. Have the courage to lead and make difficult decisions.

3.1.1.5. Listen to the customers and stakeholders needs and objectives.

3.1.1.6. Anticipate the future, keeping informed of issues and trends that may affect the mission and organizational health of the TxDMV.

3.1.1.7. Make decisions based on an understanding that is developed by appropriate and complete stakeholder participation in the process of identifying the needs of the motoring public, motor vehicle industries,
and best practices in accordance with the mission and vision of the agency.

3.1.1.8. Commit to excellence in governance, including periodic monitoring, assessing and improving its own performance.

3.1.2. The Board shall create the linkage between the Board and the operations of the agency, via the Executive Director when policy or a directive is in order.

3.1.3. The Board shall cultivate a sense of group responsibility, accepting responsibility for excellence in governance. The Board shall be the initiator of policy, not merely respond to staff initiatives. The Board shall not use the expertise of individual members to substitute for the judgment of the board, although the expertise of individual members may be used to enhance the understanding of the Board as a body.

3.1.4. The Board shall govern the agency through the careful establishment of policies reflecting the board’s values and perspectives, always focusing on the goals to be achieved and not the day-to-day administrative functions.

3.1.5. Continual Board development shall include orientation of new Board members in the board’s governance process and periodic board discussion of how to improve its governance process.

3.1.6. The Board members shall fulfill group obligations, encouraging member involvement.

3.1.7. The Board shall evaluate its processes and performances periodically and make improvements as necessary to achieve premier governance standards.

3.1.8. Members shall respect confidentiality as is appropriate to issues of a sensitive nature.

3.2. **TxDMV Board Primary Functions/Characteristics**

TxDMV Board Governance can be seen as evolving over time. The system must be flexible and evolutionary. The functions and characteristics of the TxDMV governance system are:

3.2.1. Outreach

3.2.1.1. Monitoring emerging trends, needs, expectations, and problems from the motoring public and the motor vehicle industries.

3.2.1.2. Soliciting input from a broad base of stakeholders.
3.2.2. Stewardship

3.2.2.1. Challenging the framework and vision of the agency.

3.2.2.2. Maintaining a forward looking perspective.

3.2.2.3. Ensuring the evolution, capacity and robustness of the agency so it remains flexible and nimble.

3.2.3. Oversight of Operational Structure and Operations

3.2.3.1. Accountability functions.

3.2.3.2. Fiduciary responsibility.

3.2.3.3. Checks and balances on operations from a policy perspective.

3.2.3.4. Protecting the integrity of the agency.

3.2.4. Ambassadorial and Legitimating

3.2.4.1. Promotion of the organization to the external stakeholders, including the Texas Legislature, based on the vision of the agency.

3.2.4.2. Ensuring the interests of a broad network of stakeholders are represented.

3.2.4.3. Board members lend their positional, professional and personal credibility to the organization through their position on the board.

3.2.5. Self-reflection and Assessment

3.2.5.1. Regular reviews of the functions and effectiveness of the Board itself.

3.2.5.2. Assessing the level of trust within the Board and the effectiveness of the group processes.

3.3. Board Governance Investment

Because poor governance costs more than learning to govern well, the Board shall invest in its governance capacity. Accordingly:

3.3.1. Board skills, methods, and supports shall be sufficient to ensure governing with excellence.
3.3.1.1. Training and retraining shall be used liberally to orient new members, as well as maintain and increase existing member skills and understanding.

3.3.1.2. Outside monitoring assistance shall be arranged so that the board can exercise confident control over agency performance. This includes, but is not limited to, financial audits.

3.3.1.3. Outreach mechanisms shall be used as needed to ensure the Board’s ability to listen to stakeholder viewpoints and values.

3.3.1.4. Other activities as needed to ensure the Board’s ability to fulfill its ethical and legal obligations and to represent and link to the motoring public and the various motor vehicle industries.

3.3.2. The Board shall establish its cost of governance and it will be integrated into strategic planning and the agency’s annual budgeting process.

3.4. Practice Discipline and Assess Performance

The Board shall ensure the integrity of the board’s process by practicing discipline in Board behavior and continuously working to improve its performance. Accordingly:

3.4.1. The assigned result is that the Board operates consistently with its own rules and those legitimately imposed on it from outside the organization.

3.4.1.1. Meeting discussion content shall consist solely of issues that clearly belong to the Board to decide or to monitor according to policy, rule and law. Meeting discussion shall be focused on performance targets, performance boundaries, action on items of Board authority such as conduct of administrative hearings, proposal, discussion and approval of administrative rule-making and discussion and approval of all strategic planning and fiscal matters of the agency.

3.4.1.2. Board discussion during meetings shall be limited to topics posted on the agenda.

3.4.1.3. Adequate time shall be given for deliberation which shall be respectful, brief, and to the point.

3.4.2. The Board shall strengthen its governing capacity by periodically assessing its own performance with respect to its governance model. Possible areas of assessment include, but are not limited to, the following:

3.4.2.1. Are we clear and in agreement about mission and purpose?
3.4.2.2. Are values shared?

3.4.2.3. Do we have a strong orientation for our new members?

3.4.2.4. What goals have we set and how well are we accomplishing them?

3.4.2.5. What can we do as a board to improve our performance in these areas?

3.4.2.6. Are we providing clear and relevant direction to the Executive Director, stakeholders and partners of the TxDMV?

3.4.3. The Board Chair shall periodically promote regular evaluation and feedback to the whole Board on the level of its effectiveness.
Texas Department of Motor Vehicles
Strategic Planning Policy

1. PURPOSE

The directives presented in this policy address the annual Strategic Planning process at the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. TxDMV Strategic Planning Policy attempts to develop, document and expand its policy that is comprehensive in its scope in regards to the strategic planning process of the Board and the Department beyond that of the state strategic planning process.

3. POLICY

3.1. TxDMV Board Strategic Planning

This policy describes the context for strategic planning at TxDMV and the way in which the strategic plan shall be developed and communicated.

3.1.1. The Board is responsible for the strategic direction of the organization, which includes the vision, mission, values, strategic goals, and strategic objectives.

3.1.2. TxDMV shall use a 5-year strategic planning cycle, which shall be reviewed and updated annually, or as needed.

3.1.3. The 5-year strategic plan shall be informed by but not confined by requirements and directions of state and other funding bodies.

3.1.4. In developing strategic directions, the Board shall seek input from stakeholders, the industries served, and the public.

3.1.5. The Board shall:

3.1.5.1. Ensure that it reviews the identification of and communication with its stakeholders at least annually.

3.1.5.2. Discuss with agency staff, representatives of the industries served, and the public before determining or substantially changing strategic directions.
3.1.5.3. Ensure it receives continuous input about strategic directions and agency performance through periodic reporting processes.

3.1.6. The Board is responsible for a 5-year strategic plan that shall identify the key priorities and objectives of the organization, including but not limited to:

3.1.6.1. The creation of meaningful vision, mission, and values statements.

3.1.6.2. The establishment of a Customer Value Proposition that clearly articulates essential customer expectations.

3.1.6.3. A Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis, to be updated annually.

3.1.6.4. An assessment of external factors or trends (i.e., customer needs, political factors, economic factors, industry trends, technology factors, uncertainties, etc.)

3.1.6.5. Development of the specific goals and objectives the Department must achieve and a timeline for action.

3.1.6.6. Identification of the key performance indicators to measure success and the initiatives that shall drive results.

3.1.6.7. Engage staff at all levels of the organization, through the executive director, in the development of the strategic plan through surveys, interviews, focus groups, and regular communication.

3.1.6.8. Ensure the strategic planning process produces the data necessary for LBB/GOBPP state required compliance while expanding and enhancing the strategic plan to support the needs of the TxDMV. The overall strategic plan shall be used as a tool for strategic management.

3.1.7. The Board delegates to the Executive Director the responsibility for implementing the agency’s strategic direction through the development of agency wide and divisional operational plans.
Texas Department of Motor Vehicles
TxDMV Goals and Objectives

1. PURPOSE

The information presented in this policy addresses the goals and key objectives of the Board of the Texas Department of Motor Vehicles (TxDMV) as they relate to the mission, vision, and values of the TxDMV.

2. SCOPE

The scope of this policy is to define the desired state the TxDMV Board is working to achieve. This policy is designed to be inspirational in outlining the desired state of the agency that supports the TxDMV Board vision and meeting agency goals.

3. TxDMV MISSION

To promote and protect the interests of the motoring public and all citizens in the state of Texas.

4. TxDMV VISION

The TxDMV shall be the most efficient, effective, transparent, and customer driven agency in Texas providing excellent services to all.

5. TxDMV VALUES

To earn the trust and faith of all citizens of Texas by being transparent and accountable, cost effective, customer centric, trustworthy, performance driven, and progressive.

5.1. Transparent – a value that allows those at TxDMV who are affected by administrative decisions and business transactions, including but not limited to employees, customers, stakeholders, and legislative members, to know not only the basic facts and figures but also the mechanisms and processes. It is the duty of civil servants, managers and trustees to act visibly, predictably and understandably.

5.2. Efficient – a value that requires TxDMV to maximize the productivity of the personnel and capital resources of the agency. We do not add people, processes, programs or capital resources unless there is a proven need for them. We reduce people and restructure processes, programs or capital resources whenever and wherever our customers and stakeholders no longer have a demonstrated need that requires the support.

5.3. Teamwork – a value that flows from TxDMV operating as one voice or unit. TxDMV is not now and never shall be again an agency made up of divisional silos. The TxDMV
shall take a unified approach to performance, on that ties together the agency and individual aspect.

5.4. **Communication** – a value that ensures that all internal and external stakeholders of the TxDMV have clear, concise and accurate information on all aspects of agency operations and planning. Communication builds trust and teamwork.

5.5. **Accountable** – a value that states all TxDMV employees are responsible or answerable to someone for something, specifically to managers, the TxDMV Board, the Texas Legislature, stakeholders, and customers. It involves taking responsibility for our own actions and being able to explain them. Accountability comes in many forms and shall be used in all aspects of our daily business.

5.6. **Cost Effective** – a value at TxDMV whereby decisions and business transactions, as well as decision alternatives, are based on the one whose cost is lower than its benefit.

5.7. **Customer Centric** – a value at TxDMV whereby we put the customer at the center of everything that we do, or do everything with the customer in mind.

5.8. **Trustworthy** – a value at TxDMV whereby everyone is clear, honest, and follows through to the best of their ability in the timeliest manner possible in order to produce results that benefit the public.

5.9. **Performance Driven** – a value at TxDMV whereby the agency stresses the importance of the performance of all employees and of the operating policies and systems. This approach shall consist of aligning the objectives, resources, and budgets of the different divisions and the goals, opportunities, and performance metrics of employees and measuring, analyzing, and reporting on employee and agency performance. This value shall lead the agency toward dramatic improvements in performance in financial terms, with respect to employee productivity and morale and the flexibility to adapt quickly to change.

5.10. **Progressive** – a value at TxDMV whereby the agency and all employees advocate for progress, change, improvement, or reform toward the vision of the agency.

6. **TxDMV GOALS**

6.1. **GOAL 1 – Performance Driven**

The TxDMV shall be a performance driven agency in its operations whether it is in customer service, licensing, permitting, enforcement or rule-making. At all times the TxDMV shall mirror in its performance the expectations of its customers and stakeholders by effective, efficient, customer-focused, on-time, fair, predictable and thorough service or decisions.
6.1.1. **Key Objective 1**

The TxDMV shall be an agency that is retail-oriented in its approach. To accomplish this orientation TxDMV shall concentrate the focus of the agency on:

6.1.1.1. Delivering its products and services to all of its customers and stakeholders in a manner that recognizes that their needs come first. These needs must be positively and proactively met. TxDMV works for and with its customers and stakeholders, not the other way around.

6.1.1.2. Operating the agency’s licensing and registration functions in a manner akin to how a private, for-profit business. As a private, for-profit business, TxDMV would have to listen to its customers and stakeholders and implement best practices to meet their needs or its services would no longer be profitable or necessary. Act and react in a manner that understands how to perform without a government safety net and going out of business.

6.1.1.3. Simplify the production and distribution processes and ease of doing business with the TxDMV. Adapting and maintaining a business value of continuous improvement is central to TxDMV operations and processes.

6.1.1.4. All operations of the TxDMV shall stand on their own merits operationally and financially. If a current process does not make sense then TxDMV shall work within legislative and legal constraints to redesign or discard it. If a current process does not make or save money for the state and/or its customers or stakeholders then TxDMV shall work within legislative and legal constraints to redesign or discard it. TxDMV shall operate as efficiently and effective as possible in terms of financial and personnel needs. Divisions should focus on cost savings without sacrificing performance. Division directors are accountable for meeting these needs and applicable measures. All division directors are collectively responsible for the performance of TxDMV as a whole.

6.1.1.5. Focus on revenue generation for transportation needs as well as the needs of its customers.

6.1.1.6. Decisions regarding the TxDMV divisions should be based on the overriding business need of each division to meet or provide a specific service demand, with the understanding and coordination of overarching agency-wide needs.
6.1.1.7. Developing and regularly updating a long-range Statewide Plan describing total system needs, establishing overarching statewide goals, and ensuring progress toward those goals.

6.1.1.8. The TxDMV shall establish a transparent, well-defined, and understandable system of project management within the TxDMV that integrates project milestones, forecasts, and priorities.

6.1.1.9. The TxDMV shall develop detailed work programs driven by milestones for major projects and other statewide goals for all TxDMV divisions.

6.1.1.10. The TxDMV, with input from stakeholders and policymakers, shall measure and report on progress in meeting goals and milestones for major projects and other statewide goals.

6.2. GOAL 2 – Innovation and Economic Development

The TxDMV shall be an innovative, forward thinking agency that looks for ways to promote the economic well-being and development of the industries it serves as well as the State of Texas within the legislative boundaries that have been established for the agency.

6.2.1. Key Objective 1

The TxDMV shall achieve operational, cultural, structural and financial independence from other state agencies.

6.2.1.1. Build the TxDMV identity. This means that TxDMV shall make customers aware of what services we offer and how they can take advantage of those services.

6.2.1.2. Build the TxDMV brand. This means that TxDMV shall reach out to the stakeholders, industries we serve and the public, being proactive in addressing and anticipating their needs.

6.2.1.3. Determine immediate, future, and long term facility and capital needs. TxDMV needs its own stand-alone facility and IT system as soon as possible. In connection with these needs, TxDMV shall identify efficient and effective ways to pay for them without unduly burdening either the state, its customers or stakeholders.

6.2.1.4. All regulations, enforcement actions and decision at TxDMV shall be made in a timely, fair and predictable manner.
6.2.2. **Key Objective 2**

Provide continuous education training on business trends in the industry with a particular emphasis on activities in Texas.

6.2.3. **Key Objective 3**

Provide continuous outreach services to all customers and stakeholders to access their respective needs and wants. This includes helping frame legislative or regulatory issues for consideration by other bodies including the legislature.

6.2.4. **Key Objective 4**

Exam all fees to determine their individual worth and reasonableness of amount. No fee shall be charged that cannot be defended financially and operationally.

6.3. **GOAL 3 – Customer-centric**

The TxDMV shall be a customer-centric agency that delivers today’s services and decisions in a positive, solution-seeking manner while ensuring continuous, consistent and meaningful public and stakeholder involvement in shaping the TxDMV of tomorrow.

6.3.1. **Key Objective 1**

The TxDMV shall seek to serve its customer base through a creative and retail oriented approach to support the needs of its industries and customers.

6.3.2. **Key Objective 2**

The TxDMV shall develop and implement a public involvement policy that guides and encourages meaningful public involvement efforts agency-wide.

6.3.3. **Key Objective 3**

The TxDMV shall develop standard procedures for documenting, tracking, and analyzing customer complaint data. Successful problem resolution metrics should be monitored to support continuous improvement activities that shall permanently improve customer facing processes.

6.3.4. **Key Objective 4**

The TxDMV shall provide a formal process for staff with similar responsibilities to share best practices information.
6.3.5. **Key Objective 5**

The TxDMV shall provide central coordination of the Department’s outreach campaigns.

6.3.6. **Key Objective 6**

The TxDMV shall develop and expand user friendly, convenient, and efficient website applications.

6.3.7. **Key Objective 7**

TxDMV shall timely meet all legislative requests and mandates.
Agency Operational Boundaries as Defined by Department Policies of the TxDMV Board (Board)

The Board is responsible for the policy direction of the agency. The Board’s official connection to the day-to-day operation of the Texas Department of Motor Vehicles (TxDMV) and the conduct of its business is through the Executive Director of the TxDMV (ED) who is appointed by the Board and serves at its pleasure. The authority and accountability for the day-to-day operations of the agency and all members of the staff, except those members who report directly to the Board, is the sole responsibility of the ED.

In accordance with its policy-making authority the Board has established the following policy boundaries for the agency. The intent of the boundaries is not to limit the ability of the ED and agency staff to manage the day-to-day operations of the agency. To the contrary, the intent of the boundaries is to more clearly define the roles and responsibilities of the Board and the ED so as to liberate the staff from any uncertainty as to limitations on their authority to act in the best interest of the agency. The ED and staff should have certainty that they can operate on a daily basis as they see fit without having to worry about prior Board consultation or subsequent Board reversal of their acts.

The ED and all agency employees shall act at all times in an exemplary manner consistent with the responsibilities and expectations vested in their positions. The ED and all agency employees shall act in a manner consistent with Board policies as well as with those practices, activities, decisions, and organizational circumstances that are legal, prudent, and ethical. It is the responsibility of the ED to ensure that all agency employees adhere to these boundaries.

Accordingly, the TxDMV boundaries are as follows:

1. The day-to-day operations of the agency should be conducted in a manner consistent with the vision, mission, values, strategic framework, and performance metrics as established by the Board. These elements must not be disregarded or jeopardized in any way.

2. A team-oriented approach must be followed on all enterprise-wide decisions to ensure openness and transparency both internally and externally.

3. The agency must guard against allowing any financial conditions and decision which risk adverse fiscal consequences, compromise Board financial priorities, or fail to
show an acceptable level of foresight as related to the needs and benefits of agency initiatives.

4. The agency must provide timely, accurate, and honest information that will afford the Board, public, stakeholders, executive branch and the legislature the best ability to evaluate all sides of an issue or opportunity before forming an opinion or taking action on it. Any information provided that is intentionally untimely, inaccurate, misleading or one-sided will not be tolerated.

5. The agency must take all reasonable care to avoid or identify in a timely manner all conflicts of interest or even the appearance of impropriety in awarding purchases, negotiating contracts or in hiring employees.

6. The agency must maintain adequate administrative policies and procedures that are understandable and aid in staff recruitment, development and retention.

7. The agency must maintain an organizational structure that develops and promotes the program areas from an enterprise-wide perspective. No organizational silos or sub-agencies will be allowed. We are the TxDMV.

8. The agency must empower its entire staff to deliver a positive customer experience to every TxDMV customer, stakeholder or vendor to reduce their effort and make it easier for them to do business with the TxDMV.

9. The agency must at all times look to flattening its organizational structure to reduce cost as technology advances allow.

10. Agency staff shall anticipate and resolve all issues timely.

11. The agency must maximize the deployment and utilization of all of its assets – people, processes and capital equipment – in order to fully succeed.

12. The agency must not waste the goodwill and respect of our customers, stakeholders, executive branch and legislature. All communication shall be proper, honest, and transparent with timely follow-up when appropriate.

13. The agency should focus its work efforts to create value, make sure that processes, programs, or projects are properly designed, budgeted and vetted as appropriate with outside stakeholders to ensure our assumptions are correct so positive value continues to be created by the actions of the TxDMV.

14. The ED through his or her staff is responsible for the ongoing monitoring of all program and fiscal authorities and providing information to the Board to keep it apprised of all program progress and fiscal activities. This self-assessment must result in a product that adequately describes the accomplishment of all program
goals, objectives and outcomes as well as proposals to correct any identified problems.

15. In advance of all policy decisions that the Board is expected to make, the ED will provide pertinent information and ensure board members understand issues/matters related to the pending policy decision. Additionally, the ED or designee will develop a process for planning activities to be performed leading up to that particular policy decision and the timeframe for conducting these planning activities. It is imperative that the planning process describes not only when Board consideration will be expected but also when prior Board consultation and involvement in each planning activity will occur.

16. In seeking clarification on informational items Board members may directly approach the ED or his or her designee to obtain information to supplement, upgrade or enhance their knowledge and improve the Board’s decision-making. Any Board member requests that require substantive work should come to the Board or Committee Chairs for direction.

17. The agency must seek stakeholder input as appropriate on matters that might affect them prior to public presentation of same to the Board.

18. The agency must measure results, track progress, and report out timely and consistently.

19. The ED and staff shall have the courage to admit a mistake or failure.

20. The ED and staff shall celebrate successes!

The Board expects the ED to work with agency staff to develop their written interpretation of each of the boundaries. The ED will then present this written interpretation to the Board prior to discussion between the Board and ED on the interpretation. The Board reserves the right to accept, reject or modify any interpretation. The intent is that the Board and the ED will come to a mutually agreeable interpretation of agency boundaries that will then form the basis of additional written thought on the part of the ED and staff as to how these boundaries will influence the actions of the agency.
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<th>GOAL</th>
<th>STRATEGY</th>
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<th>OWNER</th>
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<td>Effective and efficient services</td>
<td>Average processing time for new franchise license applications</td>
<td>1</td>
<td>45 days</td>
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<td>Average processing time for franchise renewals</td>
<td>2</td>
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<td>Average processing time for new Dealer's General Distinguishing Number (GDN) license applications</td>
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<td>Average processing time for GDN license amendments</td>
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<td>Average turnaround time for single-trip routed permits</td>
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<td>33.88 mins</td>
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<td>Average turnaround time for intrastate authority application processing</td>
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<td>Average turnaround time for apportioned registration renewal applications processing</td>
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<td>Average turnaround time to issue salvage or non-repairable vehicle titles</td>
<td>10</td>
<td>5 days</td>
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<td>Average time to complete motor vehicle complaints with no contested case proceeding</td>
<td>11</td>
<td>131 days</td>
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<td>Average time to complete motor vehicle complaints with contested case proceeding</td>
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<td>Average time to complete household goods complaints with no contested case proceeding</td>
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<td>Average time to complete Oversize/Overweight (OS/OW) complaints with no contested case proceeding</td>
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<td>Average time to complete OS/OW complaints with contested case proceeding</td>
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<td>Percent of lemon law cases resolved prior to referral for hearing</td>
<td>21</td>
<td>76%</td>
<td>60%</td>
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<td>Average time to complete lemon law cases where no hearing is held</td>
<td>22</td>
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<td>Average time to complete lemon law cases where hearing is held</td>
<td>23</td>
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<td>Percent of total renewals and net cost of registration renewal:</td>
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<td>A. Online 15%</td>
<td>A. 16%</td>
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<td>B. Mail 5%</td>
<td>25</td>
<td>B. 5%</td>
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<td>C. In Person 80%</td>
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<td>Total dealer title applications:</td>
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<td>A. 5%</td>
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<td>A. Through Webdealer</td>
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<td>B. Tax Office</td>
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<td>A. Electronic Lien Title</td>
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<td>16%</td>
<td>A. 16%</td>
<td>A. 20%</td>
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<td>B. Standard Lien Title</td>
<td>B. 84%</td>
<td>B. 80%</td>
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<td>Percent of total OS/OW permits:</td>
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<td>A. Online (self-issued)</td>
<td>A. 57.47%</td>
<td>58% or greater</td>
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<td>B. Online (MCD-issued)</td>
<td>B. 23.03%</td>
<td>25% or greater</td>
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<td>C. Phone</td>
<td>C. 11.33%</td>
<td>10% or less</td>
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<td>D. Mail</td>
<td>D. 1.76%</td>
<td>1.7% or less</td>
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<td>E. Fax</td>
<td>E. 6.4%</td>
<td>5.3% or less</td>
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<td>Average time to complete lemon law and warranty performance cases after referral</td>
<td>Baseline</td>
<td>25 days</td>
<td>OAH</td>
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<td>Average time to issue a decision after closing the record of hearing</td>
<td>Baseline</td>
<td>30 days</td>
<td>OAH</td>
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<td>Percent of audit recommendations implemented</td>
<td>Baseline</td>
<td>90% annual goal for these recommendations which Internal Audit included in a follow-up audit</td>
<td>IAD</td>
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<td>Percent of projects approved by the agency's governance team that finish within originally estimated time (annual)</td>
<td>57%</td>
<td>100%</td>
<td>EPMO</td>
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<td>Percent of projects approved by the agency's governance team that finish within originally estimated budget (annual)</td>
<td>71%</td>
<td>100%</td>
<td>EPMO/FAS</td>
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<td>Percent of monitoring reports submitted to Texas Quality Assurance Team (TXQAT) by or before the due date</td>
<td>79%</td>
<td>100%</td>
<td>EPMO</td>
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<td>Percent of project manager compliance with EPMO project management standards based upon internal quality assurance reviews</td>
<td>Baseline in development</td>
<td>100%</td>
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<td>Percent of employees due a performance evaluation during the month that were completed on time by division.</td>
<td>Baseline in development</td>
<td>100%</td>
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<td>Percent of goals accomplished as stated in the director's performance evaluation</td>
<td>Baseline in development</td>
<td>Measure annually at the end of the fiscal year</td>
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<td>Employees who rate job satisfaction as above average as scored by the Survey of Employee Engagement (SEE)</td>
<td>3.47 (SEE 2012)</td>
<td>3.65 (SEE 2013)</td>
<td>HR</td>
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<td>Increase in the overall SEE score</td>
<td>337 (SEE 2012)</td>
<td>360 (SEE 2013)</td>
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<td>Percent of favorable responses from customer satisfaction surveys</td>
<td>Baseline in development</td>
<td>90%</td>
<td>EPMO</td>
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<td></td>
<td>Annual agency voluntary turnover rate</td>
<td>6.5% (FY 2013)</td>
<td>5.0%</td>
<td>HR</td>
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<td></td>
<td></td>
<td></td>
<td>Number of education programs conducted and number of stakeholders/customers attending education programs</td>
<td>4.48/80.61</td>
<td>4/80</td>
<td>MCD</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Number of education programs conducted and number of stakeholders/customers attending education programs</td>
<td>36/335</td>
<td>42/390</td>
<td>VTR</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>Number of eLearning training modules available online through the Learning Management System and number of modules completed by stakeholders/customers</td>
<td>eLearning Modules Available - 28 Completed - 735</td>
<td>Available - 31 Completed - 814</td>
<td>VTR</td>
<td></td>
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<tr>
<td>GOAL</td>
<td>STRATEGY</td>
<td>#</td>
<td>MEASURE</td>
<td>Baseline</td>
<td>Target</td>
<td>Actual</td>
<td>OWNER</td>
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<tr>
<td><strong>Customer Centric</strong></td>
<td></td>
<td></td>
<td><strong>Number of Shows and Exhibits attended to educate stakeholders/customers about TxDMV services and programs</strong></td>
<td>6</td>
<td>7</td>
<td></td>
<td>MVD</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>Number of education programs conducted and number of stakeholders/customers attending education programs</strong></td>
<td>3/250</td>
<td>3/250</td>
<td></td>
<td>ENF</td>
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<td></td>
<td></td>
<td><strong>Number of education programs conducted and number of stakeholders/customers attending education programs</strong></td>
<td>3/150</td>
<td>4/300</td>
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<td>ABTPA</td>
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<td></td>
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<td></td>
<td><strong>Percent of customers and stakeholders who express above average satisfaction with communications to and from TxDMV</strong></td>
<td>Baseline in development</td>
<td>80%</td>
<td></td>
<td>All Divisions</td>
</tr>
<tr>
<td><strong>Excellent Service Delivery</strong></td>
<td></td>
<td></td>
<td><strong>Average hold time</strong></td>
<td>9 min</td>
<td>9 min</td>
<td></td>
<td>CRD</td>
</tr>
<tr>
<td>48</td>
<td></td>
<td></td>
<td><strong>Abandoned call rate</strong></td>
<td>22%</td>
<td>20%</td>
<td></td>
<td>CRD</td>
</tr>
<tr>
<td>50</td>
<td></td>
<td></td>
<td><strong>Average hold time</strong></td>
<td>Baseline in development</td>
<td>1 min</td>
<td></td>
<td>ITS</td>
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<tr>
<td>51</td>
<td></td>
<td></td>
<td><strong>Abandoned call rate</strong></td>
<td>Baseline in development</td>
<td>5%</td>
<td></td>
<td>ITS</td>
</tr>
<tr>
<td>52</td>
<td></td>
<td></td>
<td><strong>Average hold time</strong></td>
<td>Credentialing - 1.6 minutes</td>
<td>1.5 minutes</td>
<td>MCD</td>
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<td></td>
<td></td>
<td></td>
<td><strong>Abandoned call rate</strong></td>
<td>Credentialing - 7%</td>
<td></td>
<td>MCD</td>
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</tbody>
</table>

**Values:** We at the Texas Department of Motor Vehicles are committed to: **TEXAS**-Transparency, Efficiency, Excellence, Accountability, and Stakeholders.

**Vision:** The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

**Mission:** To serve, protect, and advance the citizens and industries in the state with quality motor vehicle related services.

**Philosophy:** The Texas Department of Motor Vehicles is customer-focused and performance driven. We are dedicated to providing services in an efficient, effective and progressive manner as good stewards of state resources. With feedback from our customers, stakeholders and employees, we work to continuously improve our operations, increase customer satisfaction and provide a consumer friendly atmosphere.

**Key:**
- Critical
- Off Target
- On target
- Not yet started