



Texas Department
of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Public Information Request Processes
Audit Report
Audit 18-03

Internal Audit Division
January 2018

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Public Information Request Processes, 18-03
Executive Summary

BACKGROUND

A public information request (PIR) is a request for information written, produced, collected, assembled, or maintained in connection with the transaction of a governmental body’s official business. A PIR is governed by the Texas Public Information Act (Act). The Act defines releasable information and stipulates how long an agency has to provide the information.

Although a PIR is routed through the Office of General Counsel (OGC), each division is responsible for coordinating and providing the information for the PIR. To facilitate the coordination of PIRs, a new application, FOIAXpress, was procured and configured.

Between March 1, 2017 and August 31, 2017, 12,334 PIRs were processed.

The audit objectives are to determine if public information requests:

- are handled consistently throughout the department;
- assess appropriate cost; and
- are handled in accordance with state laws.

RECOMMENDATIONS

The Internal Audit Division made four recommendations related to consolidation of the multiple PIR intake points and development of uniform guidance on issues related to law enforcement requests and requests that may require executive management attention.

RESULTS

The Texas Department of Motor Vehicles’ (TxDMV or Department) FOIAXpress (FX) system provides the public with a central online portal to submit all PIR to the Department and a tracking number to follow the progress of the PIR being processed. The TxDMV’s Office of General Counsel (OGC) has provided training to the Department’s Public Information Coordinators (PIC) outlining their responsibilities and the Department’s obligations when receiving a public information request, statutory requirements and timelines, and how to use the FX system.

The TxDMV complies with the Texas Public Information Act requirements. In the 44 PIRs tested, response time to the requestor was within the required 10 business days and fees to the requestor were applied or waived in accordance with requirements.

The TxDMV could streamline the process by consolidating additional PIR processes and improve guidance to divisions on PIR processing practices. Currently, there are multiple PIR intake points in the Department creating PIR reporting errors due to redundant data entry. In addition, the TxDMV applies different internal PIR response practices across the Department. Varying methods of defining law enforcement requests, identifying requests which should be brought to executive management’s attention, and applying charges for PIR processing may result in requestors being charged inconsistently for the same request or executive management remaining unaware of public interest in certain information.

MANAGEMENT RESPONSE

TxDMV Management agrees with the recommendations contained in this report. The recommendations will be addressed by Motor Carrier Division, Motor Vehicle Division, Vehicle Titles and Registration, Information Technology Services Division, and Office of General Counsel. All recommendations will be addressed no later than December 1, 2018.

Overall Conclusion and Executive Management Response

Maturity Assessment Rating

3 - Defined Process Level: The process has been standardized, documented, communicated, and is being followed. The process, however, may not detect any deviation due to the process not being sufficiently evaluated to address risks.

Other possible ratings and definitions can be found in Appendix 1, under Maturity Assessment Rating Definition.

Strengths

The Texas Department of Motor Vehicles (TxDMV or Department) has taken the initiative to simplify public information requests (PIR) for the general public and provide more insight into the processing status of their PIR. The TxDMV's FOIAXpress (FX) system provides the public with a central online portal to submit all PIR to the Department and a tracking number to follow the progress of the PIR being processed.

The TxDMV's Office of General Counsel (OGC) has provided training to Public Information Coordinators (PICs) stationed in each division outlining their responsibilities and the Department's obligations when receiving a public information request, statutory requirements and timelines, and how to use the FX system. The OGC has also hired an additional attorney in October 2017 specializing in assisting the Department with open records processes and inquiries.

The TxDMV complies with the Texas Public Information Act requirements. In the 44 PIR requests tested, response time to the requestor was within the required 10 business days and fees to the requestor were applied or waived in accordance with requirements.

Improvements

The TxDMV could streamline the process by consolidating additional PIR processes and improve guidance to divisions on uniform PIR processing practices. Below are the audit results that further expand on these areas.

Audit Result #1: The TxDMV has multiple methods to receive PIRs.

Audit Result #2: The TxDMV applies different processing and response practices across multiple divisions.

The detailed audit results can be found under the Audit Results section beginning on page 4.

Executive Director's Management Response

TxDmv Management agrees with the recommendations contained in the Internal Audit Division's (IAD) *Public Information Request Processes Audit Report*. Management has provided its responses to the recommendations and a plan to implement the necessary changes. The recommendations will be addressed by Motor Carrier Division (MCD), Motor Vehicle Division (MVD), Vehicle Titles and Registration (VTR), Information Technology Services Division (ITSD), and OGC. All recommendations will be addressed no later than December 1, 2018.

Background

The Texas Public Information Act (Act) defines public information as information written, produced, collected, assembled, or maintained in connection with the transaction of a governmental body's official business. The Act prescribes it shall be liberally construed in favor of granting a request for information. In addition, the Act defines releasable information and stipulates how long an agency has to provide the information. The TxDMV accepts a written public information request (PIR) in accordance with the Act via email, mail, and the TxDMV's online FOIAXpress (FX) system, a centralized, online PIR processing system.

The TxDMV also accepts and processes Requests for Motor Vehicle Information using the Vehicle Title and Registration Form 275 (VTR-275). The VTR-275 must be used to obtain a title history, certified title history, title and registration verification, certified title and registration verification, or a duplicate registration receipt for the current registration.

The Department processes VTR-275 requests separately from other PIRs because they are statutorily allowed confidentiality exceptions that are not permitted for other PIR. The Act provides the TxDMV authority to redact personal information, as defined by Transportation Code §730, from a motor vehicle record without first seeking an opinion from the Office of the Attorney General (OAG).¹ The VTR-275s were historically treated as a separate workflow to more quickly serve customers requesting copies of their own vehicle information by promptly redacting the confidential information from the requested records.

The TxDMV's Office of General Counsel (OGC) is responsible for managing and implementing the TxDMV's PIR response processes through a decentralized network of TxDMV staff assigned as Public Information Coordinators (PIC) within each division. In addition to their programmatic duties, division PIC responsibilities include responding to PIRs assigned to their division, coordinating with other divisions as needed to compile responses, tracking response progress and timelines in compliance with the Act, identifying and redacting confidential information prior to release of documentation, and tracking PIR volume for public reporting by the OGC.

On March 9, 2017, the TxDMV implemented the FOIAXpress (FX) system, an online centralized PIR management system, which provides the Department's PICs electronic tools to assign, coordinate, and track PIRs and responses. The system also provides additional electronic tools for redacting and document retention. The FX system also allows PICs to electronically invoice requestors using a standardized fee table. Requestors can pay electronically by credit card or automatic clearing house (ACH) through a Texas.gov link provided by a PIC via email.

The OGC provides training and support to PICs regarding statutory requirements, TxDMV internal PIR processes, and FX system use; manages the Department's FX system user license distribution to PICs; reports and works with the FX system vendor to repair system bugs and make modifications as needed; compiles self-reported PIR information for quarterly reporting to the OAG; and refers non-disclosure requests to the OAG for opinion as required by the Act.

¹ Texas Government Code §552.130 states that a governmental body may redact a motor vehicle operator's or driver's license or permit, title or registration, or personal identification document from any information the governmental body discloses without the necessity of requesting a decision from the attorney general.

During the six-month period reviewed, March 1, 2017 through August 31, 2017, the TxDMV processed 12,334 PIR requests.

This audit was included in the fiscal year 2018 Audit Plan. The Internal Audit Division conducted this performance audit in accordance with Generally Accepted Government Auditing Standards and in conformance with the Internal Standards for the Professional Practice of Internal Auditing. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit was performed by Derrick Miller (Senior Internal Auditor) and Sandra Menjivar-Suddeath (Internal Audit Director).

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

Audit Results

The TxDMV has multiple methods to receive PIRs.

Condition

TxDmv implemented one centralized system to handle PIRs, however, three methods outside of the centralized system exist for requesting and obtaining PIR, including two PIR email inboxes and the TxDMV Request for Motor Vehicle Information form (VTR-275).

Effect

Multiple methods for PIR submission could lead to not all request being entered into the appropriate system. During the scope period, 47 requests that were received and responded to from two active open records general email boxes were not recorded in the FX system.

In addition, each division tracks the PIRs they receive and self-reports their PIR activity to the OGC. The OGC manually enters and aggregates the information into a standalone reporting database. The sequence of self-reporting and data entry is a redundant use of TxDMV staff time as PIR volumes could be pulled more directly from the FX system if all PIR were reported into the system. In addition, the OGC database requires the assistance of an Information Technology Services (ITS) Division resource for continued maintenance. Direct reporting from the FX system would minimize the number of data entry points and the resulting increase in data entry errors, and reduce the demand on the Department's ITS Division resources for maintenance of the database.

Cause

Prior to the implementation of the FX system, the general email boxes were used so that a shared location accessible by multiple division staff was available to receive and address PIR inquiries from external or internal sources. When the FX system was implemented, not all email boxes were eliminated and the TxDMV continues to allow requests to come in through these email boxes. Similarly, reporting of PIRs continues to be a manual process even though reporting exists within the FX system.

Criteria

The risk of a process breakdown increases with complexity. A distributed system contains more processing points that need to be monitored for vulnerability or breakdown than compared to a truly centralized system.

Evidence

The following evidence was collected to develop this result:

- 47 requests that were received and responded to from two active open records general email boxes were not recorded in the FX system.
- The OGC reporting database and the OAG Open Records Requests Summary reports containing the TxDMV's self-reported PIR volumes for the months of March-August 2017 did not match. For example, 93 PIR were double counted by the TxDMV in the month of April 2017. Additional smaller line item discrepancies were identified in each month reviewed. OGC

corrected the errors in the OGC reporting database and the OAG public reports as they were identified.

Recommendations

The Internal Audit Division recommends the following:

- 1.1 The TxDMV should consolidate its open records general email boxes to one email intake point. (High)
- 1.2 The TxDMV should review processes to identify how best to consolidate the reporting of requests subject to Transportation Code §730 into the FOIAXpress. (High)

Management's Response and Action Plan

Management Response & Action Plan 1.1

Management agrees with the recommendation and will work with ITSD, and then each affected division, to funnel all initial intake of Public Information Request (PIR) emails through the main FOIAXpress email box maintained by OGC. Each division will still need to maintain a PIA email account, as certain communications, like clarifications with requestors, need to come from Public Information Coordinators (PICs) within the divisions. This would also allow the teams of PICs within the divisions to continue to collaborate on incoming requests.

Management Action Plan Owners: Jimmy Archer (MCD), Daniel Avitia (MVD), Jeremiah Kuntz (VTR), Jonathan O'Quinn (ITSD), David Duncan (OGC - primary)

Anticipated Completion Date: March 1, 2018

Management Response & Action Plan 1.2

Management agrees with the recommendation and will work with VTR, including the Regional Service Centers, ITSD and OGC to determine how to facilitate the accurate reporting of responses to requests of information subject to Transportation Code §730 while minimizing or eliminating manual entry of such data.

Management Action Plan Owners: Jeremiah Kuntz (VTR), David Duncan (OGC - primary)

Anticipated Completion Date: December 1, 2018

The TxDMV applies different processing and response practices across multiple divisions.

Condition

The TxDMV applies different internal public information request (PIR) response practices across the Department including varying methods of defining law enforcement requests, identifying requests which should be brought to executive management's attention, and applying charges for PIR processing.

Different divisions within the Department vary on which entities they consider to be valid law enforcement organizations (LEO) for PIR purposes, as the definition could apply to a range of local, state, and federal enforcement or prosecutorial entities.

Divisions also differ in what topics or information they deem high-profile or sensitive enough to be brought to the attention of executive management, depending on each division's area of business.

In addition, divisions waive fees for some requestors based on varying justifications. For example, requests from LEOs or the legislature are generally waived but media requests may be waived by some divisions, such as the TxDMV's Government and Strategic Communications Division (GSC), but not by others.

Effect

Varying practices may result in the TxDMV inconsistently applying justifications for PIR fees or waivers for similar requests or requestors across the Department or being unaware of public interest in information which executive management needs to be prepared to address.

Cause

The TxDMV has not provided an explicit definition for department-wide use on what entities the Department considers an LEO when considering the source of public information requests.

PIC training provided by the TxDMV's Office of General Counsel (OGC) instructs staff to notify OGC or the GSC of requests submitted by the legislature or media, but does not address division-specific circumstances.

Finally, the Texas Public Information Act allows governmental bodies discretion in waiving fees. The Act states that a state agency may waive or reduce PIR processing fees if it determines that doing so is in the public interest. However, the Act does not provide explicit guidance or requirements for weighing the public interest.

Criteria

The TxDMV should have uniform processes and reasoning across the Department to apply consistent service to all requestors. In the absence of statutory or otherwise authoritative requirements, the Department should create and communicate expectations to staff internally.

Texas Public Information Act §552.267 states that a governmental body shall provide a copy of public information without charge or at a reduced charge if the governmental body determines that waiver or reduction of the charge is in the public interest because providing the copy of the information primarily benefits the general public. Further, if the cost to a governmental body of processing the collection of a

charge for providing a copy of public information will exceed the amount of the charge, the governmental body may waive the charge.

Evidence

The following evidence was collected to develop this result:

- The TxDMV public information coordinators reported uncertainty as to what offices, outside of commissioned law enforcement entities, to treat as valid LEOs.
- Division standards for sensitive or high-profile information are division-specific, such as a motor carrier crash involving a bridge collision for the Department's Motor Carrier Division, or changes to allowable title and registration fees to the TxDMV's Vehicle Title and Registration Division.

Recommendation

The Internal Audit Division recommends the following:

- 2.1 The TxDMV should develop uniform department-wide guidance addressing the TxDMV's definition of valid law enforcement requests and required procedures for validating law enforcement requests. (Low)
- 2.2 The TxDMV should develop guidance on topics, including when to charge PIR fees and when to bring a request to executive management attention. (Low)

Management's Response and Action Plan

Management Response & Action Plan 2.1

Management agrees that there should be standard operating procedures for the issuance of motor vehicle records to law enforcement. Guidance will be developed and all appropriate TxDMV employees will be trained on which entities are considered law enforcement and how those entities can demonstrate their identity as law enforcement.

Management Action Plan Owner: David Duncan (OGC)

Anticipated Completion Date: April 1, 2018

Management Response & Action Plan 2.2

Management agrees with the recommendation and has begun streamlining the process of when to alert the Executive team, namely in regard to media and legislative requests. OGC will include in its law enforcement SOP a section regarding when and how a manager, OGC attorney, and the Executive team should be alerted to sensitive PIRs. Additionally, the board has authorized the department to publish for public comment rules regarding the waiver of fees for law enforcement inquires as well as the requirement to present law enforcement credentials to obtain motor vehicle records. This rulemaking will resolve any uncertainty about what entities or individuals qualify for PIR fee waivers. Upon completion of the rule making process the VTR division will update its standard operating procedures to incorporate the changes.

Management Action Plan Owner: David Duncan (OGC)

Anticipated Completion Date: September 1, 2018

Appendix 1: Objectives, Scope, Methodology and Maturity Assessment

Objectives

The objectives of the audit were to determine if public information requests:

- are handled consistently throughout the department;
- have appropriate costs; and
- are handled in accordance with state laws.

Scope and Methodology

The scope of the audit included public information requests received by the Texas Department of Motor Vehicles between March 1, 2017 and August 31, 2017. Information and documents reviewed in the audit included the following:

- Government Code §552, Texas Public Information Act
- Texas Transportation Code §730, Texas Motor Vehicle Records Disclosure Act
- Texas Administrative Code §70.3, Charges for Providing Copies of Public Information
- Texas Department of Motor Vehicles Office of General Counsel Public Information Request database reports March 2017 – August 2017
- Texas Office of the Attorney General agency open records request reports March 2017 – August 2017
- Texas Department of Motor Vehicles Office of General Counsel Public Information Act training presentation
- Texas Department of Motor Vehicles FOIAXpress Users List
- Texas Department of Motor Vehicles Request for Motor Vehicle Information Form VTR-275
- Interviews with Texas Department of Motor Vehicles division public information coordinators
- FOIAXpress public information request records
- Texas Department of Motor Vehicles divisional public information request tracking sheets

Maturity Assessment Rating Definitions

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

0 - A rating level of 0, also known as a non-existent process level, is defined as no process has been defined or used.

1 - A rating level of 1, also known as an initial and ad-hoc process level, is defined as a standardized process has not been developed and an ad hoc approach is being used when issues arise.

- 2 - A rating level of a 2, also known as repeatable but intuitive process level, is defined as having developed a process where similar procedures are followed by several employees, but the results may not be consistent. The process is not documented and has not been sufficiently evaluated to address risks.
- 3 - A rating level of a 3, also known as a defined process level, is defined as having a standardized, documented, communicated, and followed process. The process, however, may not detect any deviation due to the process not being sufficiently evaluated to address risks.
- 4 - A rating level of a 4, also known as a managed and measurable process level, is defined as having a standardized, documented, communicated, and followed process. Management monitors and measures compliance with process. Process is under constant improvement and provides good practice. The use of information technology would help automate workflow and improve quality and effectiveness.
- 5 - A rating level of a 5, also known as refined level, is defined as having a good process (e.g., standardized, documented, communicated, and followed process) as a result of continuous improvement and the use of technology. Information technology is used in an integrated way to automate workflow and to improve quality and effectiveness.