



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

TxDMV Board Meeting

9:00 a.m.

Thursday, August 5, 2021

AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM
AUSTIN, TEXAS 78731
THURSDAY, AUGUST 5, 2021
9:00 A.M.

THIS MEETING WILL BE VIA VIDEOCONFERENCE

THE PUBLIC PHYSICAL LOCATION WITH PRESIDING OFFICER:

Texas Department of Motor Vehicles
4000 Jackson Ave., Building 1, Lone Star Room
Austin, Texas 78731

Link to August 5, 2021, TxDMV Board Meeting Documents:
<https://www.txdmv.gov/about-us/txdmv-board-meetings>

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

PAGE

1. **Roll Call and Establishment of Quorum**
2. **Pledges of Allegiance - U.S. and Texas**
3. **Chair's Reports** - Chairman Bacarisse
 - A. Introduction of New Board Members Christian Alvarado and Sharla Omumu
 - B. Board Committee Appointments
 - C. Recognition of Guillermo "Memo" Treviño
4. **Executive Director's Reports** - Whitney Brewster
 - A. Projects Update
 - [Call Center Upgrade](#)
 - [County Learning Management System \(LMS\)](#)
 - [Certified Copy of Texas Title Batch Printing Initiative](#)
 - [Registration and Title System \(RTS\) Enhancement](#)
 - [Owner-Retained Programming Enhancement](#)
 - [TxPROS Map Update](#)
 - [Cyber Security Training Completion](#)
 - B. [Execution of Amendment No. 2 to the Contract with Southwest Research](#)

7
8
9
10
11
12
13

14

PAGE

- 14 Institute (SwRI) for Commercial Vehicle Information Exchange Window Services
- 15 C. Introduction of New Director of Purchasing
- 16 D. Introduction of New Chief Information Security Officer Will Hilton
- 17 E. Awards, Recognition of Years of Service, and Announcements
 - Recognition of Linda M. Flores
 - Recognition of Caroline Love

CONTESTED CASES

- 19 5. **Consideration and Approval of Proposed Final Order on Enforcement Case *Texas Department of Motor Vehicles v. Jay Enterprise dba M&M Auto Sales*; MVD Docket 20-0007398.ENF., SOAH Docket No. 608-20-3330.ENF. (ACTION ITEM) - Brian Ge and Karen Meisel**
- 50 6. **Consideration and Approval of Proposed Final Order on Enforcement Case *Texas Department of Motor Vehicles v. Boss Exotics*; MVD Docket No. 17-0075684.ENF., SOAH Docket No. 608-20-0460.ENF. (ACTION ITEM) - Brian Ge and Heather Pierce**
- 77 7. **Consideration and Approval in the matter of the license application of *Peacedavies International LLC*; MVD Docket 19-0003764.ENF., SOAH Docket No. 608-19-5377.ENF. (ACTION ITEM) - Monique Johnston**

RULE PROPOSAL

- 87 8. **Chapter 217, Vehicle Titles and Registration - Roland Luna, Sr. (ACTION ITEM)**
Amendments, §217.41
(Relating to SB 792, Relating to specialty license plates and parking placards for vehicles of certain disabled veterans)

BRIEFING AND ACTION ITEMS

- 98 9. **Specialty Plate Designs - Roland Luna, Sr. (ACTION ITEMS)**
 - A. University of Texas at San Antonio - New Design proposed by License Plates of Texas, LLC under Transportation Code §504.851
 - B. Love Heart Black - New Design proposed by License Plates of Texas, LLC under Transportation Code §504.851
 - C. Louisiana State University - Crossover Design proposed under Transportation Code §504.6011 and §504.851
 - D. Mississippi State University - Redesign proposed under Transportation Code §504.851

- 102 **10. Advisory Committee Appointments** - Whitney Brewster
 - Customer Service Advisory Committee (CSAC) (ACTION ITEM)
 - Motor Carrier Regulation Advisory Committee (MCRAC) (ACTION ITEM)
 - Motor Vehicle Industry Regulation Advisory Committee (MVIRAC) (ACTION ITEM)
- 109 **11. Finance and Audit Committee Update - Committee Chair Brett Graham**
 A. TxDOT Interagency Contract FY 2022-2023 - Whitney Brewster (ACTION ITEM)
 110 B. San Antonio Lease - Ann Pierce and Roland Luna, Sr. (ACTION ITEM)
 112 C. FY 2022 Recommended Annual Operating Budget - Sergio Rey and John Ralston (ACTION ITEM)
 174 D. Third Quarter Financial Report ending May 31, 2021 - Sergio Rey (BRIEFING ONLY)
 195 E. Texas Comptroller of Public Accounts Post-Payment Audit of TxDMV - Sergio Rey and Sandra Menjivar-Suddeath (BRIEFING ONLY)
 196 F. FY 2022 First Six-Month Internal Audit Plan and Risk Assessment Report - Sandra Menjivar-Suddeath and Jason Gonzalez (ACTION ITEM)
 210 G. Internal Audit Division Status Update - Sandra Menjivar-Suddeath (BRIEFING ONLY)
 - Peer Review Report
- 12. Vice-Chair Election** (ACTION ITEM)
- 13. Appointment of a Member to Act in the Absence of the Chair and the Vice-Chair under Transportation Code §1001.023(b)(9)** - Chairman Bacarisse (BRIEFING ONLY)

CLOSED SESSION

- 14. The Board may enter into closed session under one or more of the following provisions of the Texas Open Meetings Act, Government Code Chapter 551:**
- Section 551.071** - Consultation with and advice from legal counsel regarding:
- pending or contemplated litigation, or a settlement offer;
 - a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code Chapter 551; or
 - any item on this agenda.
- Section 551.074** - Personnel matters.
- Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel.
 - Discussion relating to TxDMV dispute resolution process and recent EEOC complaints and internal Civil Rights Office complaints.

- Performance evaluation of Internal Auditor, including any modifications to compensation.

Section 551.076 - Deliberation Regarding Security Devices or Security Audits.

- the deployment, or specific occasions for implementation, of security personnel or devices; or
- a security audit.

Section 551.089 - Deliberation Regarding Security Devices or Security Audits.

- security assessments or deployments relating to information resources technology;
- network security information as described by Government Code Section 2059.055(b); or
- the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

15. Action Items from Closed Session

Performance evaluation of Internal Auditor, including any modifications to compensation

16. Public Comment

17. 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.

If you would like to comment on any agenda item (including an open comment under Item #16), you must complete a speaker's form at the registration table prior to the agenda item being taken up by the Board or send an email to GCO_General@txdmv.gov to register by providing the required information prior to the agenda item being taken up by the Board:

1. a completed [Public Comment Registration Form](#); or
2. the following information:
 - a. the agenda item you wish to comment on;
 - b. your name;
 - c. your address (optional), including your city, state, and zip code; and
 - d. who you are representing.

Public comment will only be accepted in person. Each speaker will be limited to three minutes, and time allotted to one speaker may not be reassigned to another speaker.

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 David Richards by telephone at (512) 465-1423.

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.

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

CERTIFYING OFFICIAL: Tracey Beaver, General Counsel, (512) 465-5665.

Board Meeting Date: 8/5/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.A.1
Subject: Executive Director's Report – Projects Update - Call Center Upgrade

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

The Call Center Upgrade Project upgraded the software suite to the latest versions which provide a scalable, secure, and fully supported technology solution. The Consumer Relations, Motor Carrier and the Information Services Technology staff worked diligently over many months with multiple vendors to convert the system to the new technology.

With the enhancement, new features are available which improve the user experience and allow for more robust call handling. The project improved call recording features, workforce management system, quality assessment system, reporting tools, and the automated agent routing system for Consumer Relations and Motor Carrier call centers, as well as improved call routing and reporting tools for Vehicle Titles and Registration and the Regional Service Centers.

FINANCIAL IMPACT

No fiscal impact

BACKGROUND AND DISCUSSION

The Call Center Upgrade Project established a stable call center system with an upgraded telephone system. The upgrade proved to be complex because it required a several version leap to the current, supported version of software. The project improved the functionality of the courtesy callback feature allowing customers to receive a call back rather than wait on hold for assistance, and will replace the unsupported after-call customer survey with a robust survey tool. Additional benefits to the department include failover and backup functions that have been improved to work as designed, enhanced reporting, and the ability to add new call center options such as messaging and chat.

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.A.2
Subject: Executive Director’s Report – Projects Update - County Learning Management System (LMS)

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

The Vehicle Titles and Registration (VTR) Division recently completed a large-scale project to transition the mandatory Registration and Title System (RTS) training to a new learning management system (LMS). After extensive research, TalentLMS was chosen as the new LMS platform, and VTR’s training specialist, Juan Gomez, developed and executed the 5-month project plan that resulted in the migration of 85 training modules and approximately 4,000 user accounts. TalentLMS launched successfully on July 9, and both county and internal users are now taking advantage of the new system, with over 1,100 training courses already completed.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The current platform, Articulate LMS, will reach it’s end of life in August of 2021, and a new platform is needed that is:

- reliable and secure,
- contains a simple workflow for training modules for RTS users,
- mobile friendly,
- protects customer and employee information,
- minimizes purchase and transition costs, and
- allows efficient transfer of information from the legacy system to the new LMS.

VTR evaluated 20 different systems using the criteria above and selected Talent LMS. The evaluation and analysis of Talent LMS revealed the platform was cost-effective, met the established criteria, and had the capability of custom field development.

VTR met with the Tax Assessor Collector Association (TACA) leadership to discuss the transition to Talent LMS months ago, provided various notifications to tax assessor collectors about upcoming changes, provided a briefing at the TACA Conference and a handout, placed pertinent information on the TAC hub for future reference, and sent subsequent reminders via Gov Delivery. Several communications have been provided to the elected officials, their deputies, and their training administrators. In the next few weeks, VTR will provide several interactive webinars to help users feel comfortable with the system and ensure a successful transition.

Board Meeting Date: 8/5/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.A.3
Subject: Executive Director's Report - Projects - Certified Copy of Texas Title Batch Printing Initiative

RECOMMENDATION

Briefing only

PURPOSE AND EXECUTIVE SUMMARY

As of June 21, 2021, the Vehicle Titles and Registration Division (VTR) completed a fiscal year initiative to enhance Certified Copy of Texas Title (CCO) Issuance. The initiative was designed to optimize services to stakeholders and create efficiencies for the department.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

Prior to the successful implementation of the initiative, printing of Certified Copies of Texas Titles by our Regional Service Centers consisted of printing individual certified copies on demand, and liens were not removed from the certified copies. As of June 21, 2021, mail-in applications for Certified Copies of Texas Titles are now batch printed through the department's title print vendor, and liens are removed from the vehicle record when an original release of lien is submitted with the application. The Wichita Falls Regional Service Center was our first region to launch the program, and all regions are now using the new process.

Prior to having the ability to batch print, our customer service representatives took approximately 4-5 minutes per mail-in transaction. Its early, but TxDMV believes it will see a reduction of 1 to 1 ½ minutes per transaction. This should bring the average time to complete each transaction to approximately 3 ½ minutes, which will have a significant operational impact and potentially allow VTR to repurpose positions in the future.

TxDmv will also realize a cost savings for postage. Cost savings for postage thus far is \$807.41 with a weekly average of \$201.85, impacting an average of 400 CCOs a day.

Customers will also see a benefit by no longer being required to visit a county tax assessor-collector's office to subsequently pay the title application fee and have a lien removed. This now can all be completed in a single transaction saving the customer time and money.

Customers can still walk into any one of our 16 RSCs and receive a printed copy of the CCO in person.

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.A.4
Subject: Executive Director's Report – Projects Update - Registration and Titling System (RTS) Enhancement

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

The Vehicle Titles and Registration (VTR) Division collaborated with the Information Technology Services Division to deploy an enhancement to RTS that allows Texas Law Enforcement Telecommunications System (TLETS) users to query temporary tags and view dealer name, dealer license number, doing business as (DBA), and dealer address. TLETS users, which are primarily law enforcement officers, can also view the status of the temporary tag and will know if the tag is active, expired, or voided. This RTS enhancement that interfaces with TLETS will help officers determine the legitimacy of a temporary tag during a traffic stop or investigation.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The TxDMV has worked very closely with the Consumer Protection Advisory Committee and law enforcement officials over the last year to develop and implement this enhancement in order for TLETS users and law enforcement officials to determine the legitimacy of temporary tags. Additionally, TxDMV partnered with the Texas Department of Public Safety to provide information about the RTS enhancement to TLETS users and law enforcement agencies across Texas.

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.A.5
Subject: Executive Director's Report – Projects Update - Owner-Retained Programming Enhancement

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

On June 21, 2021, the Vehicle Titles and Registration Division (VTR) and the Information Technology Services Division (ITSD) successfully implemented an enhancement to webSALVAGE, the department's web-based application for processing salvage and nonrepairable title applications, allowing electronic submission of owner-retained reports by insurance companies. The enhancement was implemented as part of the department's ongoing Statewide webDEALER Adoption project.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

Owner-retained reports are submitted to the department when an insurance company pays a claim on a vehicle deemed to be salvage or nonrepairable that is retained by the owner. Paper forms were previously the only way to submit the reports to the department and required manual processing by staff. This enhancement allows insurance companies to self-serve, as well as streamlines the process for staff that continue to process paper forms. While staff are currently using the enhancement, Title Services staff are working with insurance companies to encourage participation.

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.A.6
Subject: Executive Director's Report - Projects Update - Texas Permitting and Optimization System (TxPROS) Map Update

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

To inform the TxDMV Board and the public of the most recent update to the TxPROS map and routing function

FINANCIAL IMPACT

No cost (included in vendor maintenance contract)

BACKGROUND AND DISCUSSION

The most recent upgrade to the Motor Carrier Division's Texas Permitting and Routing Optimization System (TxPROS) was a component of the Super Heavy Permit release on May 4. The Motor Carrier Division teamed up with its TxPROS software contractor, ProMiles Software Development Corporation, to program the necessary technical process improvements to the routing functions.

Super Heavy Permits are required when a load exceeds the standard measurements and/or weight limits for traditional motor carrier permits. Some examples include parts of wind power generation towers, the Space Shuttle, or large pieces of infrastructure such as tanks, pumps.

The old routing function was challenging with customers noting that it was difficult to:

- Manipulate and view routes,
- Understand why a route was rejected,
- Exchange information using the "note" function,
- Submit and approve documents electronically,
- Receive application status information and
- Choose from multiple approved routes.

This initiative, begun in FY 2017 and completed in FY 2021, successfully addressed the significant technical challenges noted above. Although these map improvements were implemented with Super Heavy routing in mind, they benefit all customers who map a route.

This upgrade was made possible by the MCD Oversize/Overweight Permit Team, in particular, Bryan Elliott, Roy Smith, John Arkinson, James Mangawang, Liz Mitchell, James Bunner and Karen McRae (who retired at the end of May).

To: Texas Department of Motor Vehicles Board
From: William A. Grote Jr., Information Technology Services Division Director
Agenda Item: 4.A.7
Subject: Executive Director's Report - Projects Update - Cyber Security Training Completion

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

To report on FY2021 Cyber Security Awareness Training completion for the agency.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

Thanks again for a fantastic FY2021 Cyber Security Awareness training year – for the second year in a row TxDMV has been able to achieve a 100% agencywide completion on time!

The agency's information was submitted and communicated to DIR (The Department of Information Resources) on time (June 11, 2021) and meets our TGC (Texas Government Code) Section 2054.519 mandated requirements.

For next year's efforts –

TxDMV is making final preparations for the FY2022 Cyber Security training year and the target date to open training availability is currently scheduled for September 2021.

Here is our progress to date:

- All TxDMV users (Employees, Contractors, Board Members) are in the SANS Training system.
- Any updated Security Awareness course(s) have been assigned to all TxDMV users.
- TxDMV is putting final touches on the new system to assure users can readily access and complete TxDMV assigned training.

NOTE: The target date for completion of training by all users will be 5/21/2022.

The Security team will send a follow-up message to all TxDMV users when the new system is formally ready to go.

Board Meeting Date: 8/5/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.B
Subject: Executive Director's Report - Execution of Amendment No. 2 to the Contract with Southwest Research Institute (SwRI) for Commercial Vehicle Information Exchange Window

RECOMMENDATION

Briefing Only – No recommendation.

PURPOSE AND EXECUTIVE SUMMARY

To inform the Finance & Audit Committee that Executive Director Brewster requested and was granted permission by Chairman Bacarisse to sign an amendment to our contract with Southwest Research Institute (SwRI) for Commercial Vehicle Information Exchange Window (CVIEW) services.

FINANCIAL IMPACT

The amount for the amendment was \$215,828.42. This was allocated from federal grant funds.

BACKGROUND AND DISCUSSION

Texas receives and shares motor carrier safety data with other states via CVIEW. Under our contract, SwRI provides software maintenance, hosting and support regarding CVIEW. The amendment added programming services, which are funded by a 2017 federal Innovation Technology Development (ITD) grant. The programming services will enable law enforcement to obtain data on oversize and overweight permits that the department issued to motor carriers. The amount for the amendment is \$215,828.42. The amendment falls under the exception for an emergency procurement because it was necessary to sign the amendment before the end of June of 2021 to avoid undue additional costs to the state.

Board Meeting Date: 8/5/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.C
Subject: Executive Director's Report - Introduction of New Director of Purchasing – Bradley Payne

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

To introduce the new Director of Purchasing to the TxDMV Board.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The TxDMV will soon have a new Director of Purchasing, helping to round out the Finance and Administrative services team. Starting August 16, 2021 Bradley Payne will be joining us from the Texas Comptroller's Office. Bradley brings with him a wealth of experience and knowledge that will make him a great asset to TxDMV.

Bradley began his career in the procurement and contracting sector as an Estimator and Project Manager for BJ Electric, where he bid on and managed multi-million dollar new and remodel construction projects as both a prime and subcontractor. After 7 years at BJ Electric, he had a brief stint at the Travis County Sheriff's Office before joining the Statewide Procurement Division (SPD) of the State of Texas Comptroller's Office in October 2015.

Bradley is currently an Area Manager for Comptroller's SPD and has held different positions spanning across multiple sections, including the Texas SmartBuy Help Desk, Vendor Performance Coordinator, and Statewide Contract Manager/Team Lead to name a few. Since December 2018, Bradley has managed the Statewide Contract Development group, leading a team of 17 contract developers in establishing statewide term and cooperative contracts for use by state agencies and vendors

Bradley was born and raised in Austin, having graduated from McCallum High School and attended Concordia University in Austin, where he played baseball and soccer while obtaining a bachelor's degree in Kinesiology.

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.D
Subject: Executive Director's Report – Introduction of Chief Information Security Officer Will Hilton

RECOMMENDATION

Briefing only; no recommendation.

PURPOSE AND EXECUTIVE SUMMARY

To introduce the new Chief Information Security Officer to the Board.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

We're pleased to announce we've hired our new Chief Information Security Officer - Will Hilton who joined the TxDMV team on June 14th.

Will is coming to the TxDMV from Texas Health and Human Services where he served as the agency's Information Security Risk Manager.

Will has a Bachelor of Science in Computer Studies, a Master of Science in Cybersecurity, and a Master of Business Administration all from the University of Maryland University College.

Will began his career in the United States Air Force where he held multiple, increasingly responsible cybersecurity roles. After his retirement from the Air Force, Will served as the Chief Information Security Officer at Capgemini, the vendor supporting the Texas Department of information Resources Shared Technology Services before moving to HHS.

Please join me in welcoming Will Hilton to the TxDMV.



To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.E
Subject: Executive Director’s Report – Recognition of Years of Service

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

To allow the TxDMV Board to offer congratulations to employees receiving recognition for an award, reaching a state service milestone, or retirement.

FINANCIAL IMPACT

No financial impact.

BACKGROUND AND DISCUSSION

The Executive Director announces the name of individuals who retired from the agency and recognizes employees who have reached a state service milestone of 20 years and every five-year increment thereafter. Recognition at the August 5, 2021 Board Meeting for state service awards and retirements include:

- Tracey Stafford in Enforcement reached 20 years of state service
- Tanya Vernon in Motor Carrier Division reached 20 years of state service
- James Bunner in Motor Carrier Division reached 20 years of state service
- Randi Quintero in Vehicle Titles and Registration Division reached 20 years of state service
- Ana Roesch in Vehicle Titles and Registration Division reached 20 years of state service
- Joyce Juarez in Vehicle Titles and Registration Division reached 20 years of state service
- Sue Russell in Office of Administrative Hearings reached 20 years of state service
- Sherry Flemming in Consumer Relations Division reached 20 years of state service
- Drake Kirk in Government Strategic Communications Division reached 25 years of state service
- Dion Arnold in Information Technology Services Division reached 25 years of state service
- Tania Sanders in Vehicle Titles and Registration Division reached 25 years of state service
- Jesse Kirk in Information Technology Services Division reached 25 years of state service
- James Mangawang in Motor Carrier Division reached 25 years of service
- Elizabeth Ann Pierce in Finance and Administrative Services Division reached 30 years of state service
- Monica Hernandez in Finance and Administrative Services Division reached 30 years of state service

- Margaret Barker in Human Resource Division reached 30 years of state service

Retirements

- Belinda Martin - Vehicle Titles and Registration Division
- Angel Cruz – Information Technology Services Division
- Karen McRae - Motor Carrier Division
- Linda Flores - Finance and Administrative Services Division
- John Poole III – Motor Carrier Division
- Brenesa Brown - Vehicle Titles and Registration Division
- Sylvia Alvarado – Motor Carrier Division

DATE: August 5, 2021
Action Requested: ACTION ITEM

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Tracey Beaver, General Counsel
Agenda Item: 5
Subject: Consideration and Approval of Proposed Final Order on Enforcement Case *Texas Department of Motor Vehicles v. Jay Enterprise dba M&M Auto Sales*; MVD Docket 19-0014862.ENF., SOAH Docket No. 608-20-3330ENF.

PURPOSE AND EXECUTIVE SUMMARY

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

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

The Enforcement Division initiated the investigation that is the basis of this matter after a complaint was filed by Vidor Police Department. After the completion of its investigation, the Enforcement Division issued a Notice of Department Decision alleging several violations of statutes and rules, including that Jay Enterprise dba M&M Auto Sales (Respondent) holds a general distinguishing number (GDN) and: 1) operated as a dealer from a location that does not meet the requirements of an established and permanent place of business by operating out of a residence and failing to fulfill all other premises requirements; and 2) misused buyer's temporary tags. Specifically, Respondent reported one vehicle sale to the local tax authority, but issued 1,649 buyer's temporary tags during the same time frame.

The Enforcement Division referred the contested case matter to the State Office of Administrative Hearings (SOAH) on or about April 15, 2020. Staff sought an administrative penalty of \$25,000 and revocation of the Respondent's GDN license. The Administrative Law Judge (ALJ) conducted the hearing on the merits on August 13, 2020. The proposal for decision (PFD) was issued on October 27, 2020. The ALJ recommended a \$5,000 penalty and no revocation of Respondent's GDN license. On November 12, 2020, Petitioner filed Exceptions. On January 15, 2021, the ALJ forwarded an Exception Letter to the parties stating that he did not recommend any changes to the PFD after reviewing Petitioner's Exceptions.

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

1. Proposal for Decision, October 27, 2020;
2. Petitioner's Exceptions, November 12, 2020;
3. ALJ's Exception Letter, January 15, 2021;

FILED
608-20-3330
10/27/2020 10:33 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK



ACCEPTED
608-20-3330
10/27/2020 10:36 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

October 27, 2020

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

VIA E-FILE TEXAS

RE: **Docket No. 608-20-3330.ENF; MVD Docket No. 19-0014862.ENF; Texas Department of Motor Vehicles, Enforcement Division v. M & M Auto Sales**

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, a SOAH rule which may be found at www.soah.texas.gov.

Sincerely,

A handwritten signature in cursive script that reads "David DuBose".

David DuBose
Administrative Law Judge

DD/lc
Attachment

cc: Karen Meisel, Staff Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 400 Jackson Ave., Austin, TX 78731 - **VIA E-FILE TEXAS**
Bryan Laine, Laine & Laine, PCC, 1045 South Redwood, Kountze, TX 77625 - **VIA E-FILE TEXAS**
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA E-FILE TEXAS & INTERAGENCY MAIL** (with 1 hearing CD)

**SOAH DOCKET NO. 608-20-3330.ENF
MVD NO. 19-0014862.ENF**

**TEXAS DEPARTMENT OF
MOTOR VEHICLES –
ENFORCEMENT DIVISION,
Petitioner**

v.

**JAY ENTERPRISES, INC.
D/B/A M&M AUTO SALES,
Respondent**

§
§
§
§
§
§
§
§
§
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Department of Motor Vehicles—Enforcement Division (Department) seeks to have administrative penalties assessed against Jay Enterprises, Inc. d/b/a M&M Auto Sales (Respondent) for violations of the Texas Transportation Code and the Texas Administrative Code. Staff seeks an administrative penalty of \$25,000 and revocation of the Respondent’s general distinguishing number license. The Administrative Law Judge (ALJ) finds that Staff proved one of the alleged violations and recommends that the Department impose a penalty of \$5,000 against Respondent, but not revoke its license.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Notice and jurisdiction were not contested. Therefore, those issues are discussed only in the findings of fact and conclusions of law.

The hearing convened on August 13, 2020, via videoconference. Staff was represented by H. Karen Meisel, Enforcement Division attorney. Respondent appeared through its owner, Amjad Nassar, and was represented by its attorney, Bryan Laine. The hearing concluded that day, and the record closed on August 28, 2020, when the time expired for Respondent to file a response to Staff’s letter brief.

II. APPLICABLE LAW

A dealer is a person, including a corporation, who holds a general distinguishing number (GDN) license issued by the Department under Transportation Code chapter 503,¹ which itself defines a dealer as a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location.²

A dealer must comply with several requirements at its location, including maintaining an office that meets specifications, posting its hours, having an employee present or available to conduct business during those hours, and maintaining a business sign.³ An office must not be located within a residence, apartment, hotel, motel, or rooming house.⁴ A retail dealer's office must be open at least four days per week for at least four consecutive hours per day.⁵ The business hours for each day of the week must be posted at the main entrance of the dealer's office.⁶ The owner or an employee of the retail dealer must be at the location during the posted hours.⁷ If the owner or employee is not available to conduct business during those hours due to special circumstances, a separate sign must be posted indicating the date and time the dealer will resume operations.⁸ 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 under which the retail dealer conducts business.⁹

¹ Tex. Occ. Code § 2301.002(7), (17), (27).

² Tex. Transp. Code § 503.001(4).

³ 43 Tex. Admin. Code (TAC) § 215.140.

⁴ 43 TAC § 215.140(5)(C).

⁵ 43 TAC § 215.140(1)(A).

⁶ 43 TAC § 215.140(1)(B).

⁷ 43 TAC § 215.140(1)(B).

⁸ 43 TAC § 215.140(1)(B).

⁹ 43 TAC § 215.140(3).

For each vehicle sold, a dealer must issue one temporary buyer tag to the buyer.¹⁰ Dealers must enter information into the Department's database on persons to whom temporary tags are issued and obtain a specific number for the tag before a temporary tag may be issued.¹¹ Misusing or allowing the misuse of a temporary tag violates the Transportation Code.¹²

A person who violates chapter 503 of the Texas Transportation Code, or any rule adopted under such chapter, is subject to a penalty of not less than \$50 and not more than \$1,000.¹³ Each act in violation of chapter 503 of the Texas Transportation Code and each day of a continuing violation is a separate violation.¹⁴ Further, if after a hearing the Department finds that a person has violated chapter 2301 of the Texas Occupations Code, a rule adopted under such chapter, or Texas Transportation Code § 503.038(a), the Department may impose a penalty not to exceed \$10,000 per violation. Each act of violation and each day of a continuing violation is a separate violation.¹⁵ The Department's disciplinary matrix states that the Department will consider the following factors in determining the amount of civil penalty to assess or whether revocation is appropriate: acknowledgement of wrongdoing, willingness to cooperate with Department efforts to correct the violation, present value to the community, and any other matter that justice may require, including rehabilitative potential.¹⁶

The following factors must be considered in determining the amount of the penalty under the Occupations Code:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the harm or potential harm to the safety of the public;

¹⁰ Tex. Transp. Code § 503.063(a).

¹¹ Tex. Transp. Code § 503.0631; 43 Tex. Admin. Code (TAC) § 215.152.

¹² Tex. Transp. Code § 503.038(a)(12).

¹³ Tex. Transp. Code § 503.095(a).

¹⁴ Tex. Transp. Code § 503.095(b).

¹⁵ Tex. Occ. Code § 2301.801(a).

¹⁶ https://www.txdmv.gov/publications-tac/doc_download/8520-motor-vehicle-dealers-disciplinary-matrix. Last visited October 15, 2020.

- (2) the economic damage to the public caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.¹⁷

Other factors for punishment listed in the matrix include the number of violations or number of consumers harmed by the violation, attempts to conceal the violation, any violations that are intentional, premeditated, knowing, or grossly negligent, or violations of Department orders.¹⁸ Other mitigating factors include acknowledgment of wrongdoing, willingness to cooperate with the Department, efforts to correct the violation, and other matters such as rehabilitative potential and present value to the community.¹⁹

The Department may cancel a GDN if the dealer commits any of several acts, including if the dealer: “misuses or allows the misuse of a temporary tag authorized under this chapter.”²⁰ In considering whether to revoke a license under the Occupations Code, the Department must consider whether the license holder meets certain criteria, including that the person, “(3) violates this chapter or a board rule or order; (4) violates any law relating to the sale, distribution, financing, or insuring of motor vehicles; . . . or (8) violates the requirements of Section 503.0631, Transportation Code.”²¹ The Department can revoke a GDN license if the license holder violates any law relating to the sale and distribution of motor vehicles, chapter 2301 of the Texas

¹⁷ Tex. Occ. Code § 2301.801(b).

¹⁸ https://www.txdmv.gov/publications-tac/doc_download/8520-motor-vehicle-dealers-disciplinary-matrix. Last visited October 15, 2020.

¹⁹ https://www.txdmv.gov/publications-tac/doc_download/8520-motor-vehicle-dealers-disciplinary-matrix. Last visited October 15, 2020.

²⁰ Tex. Transp. Code § 503.038(a)(12).

²¹ Tex. Occ. Code § 2301.651(a).

Occupations Code, or any rule adopted by the Board.²² Although the Department is authorized to suspend a license and place a suspended licensee on probation,²³ by letter dated August 21, 2020, the Department asserted that it has “no such mechanism in place to suspend a license. Further, the current licensing system is not equipped to track a suspended or probated license.”

Staff has the burden of proving, by a preponderance of the evidence, that Respondent committed the alleged violations and the appropriate sanction for any such violations.²⁴

III. EVIDENCE

In addition to the documentary evidence admitted at the hearing, the Department’s chief investigator David George and investigators Kyle Komanich and Howard Dixon testified, as did Vidor Police Department Detective Ed Martin and Officer Matthew Custer. Respondent’s owner Mr. Nassar also testified.

Department Investigator Komanich testified that, based on a complaint from the Vidor Police Department, he visited Respondent’s location in Port Arthur, Texas, on January 23, 2020. He said that the site was not a normal car sale site. He testified that there was a building on the site that contained both a convenience store and what appeared to be a residence, with its entrance within a gated, fenced-in area. He entered the convenience store and asked the clerk about the dealership. The clerk handed him a telephone, and Mr. Nassar spoke with him. No employee of Respondent was on the premises. Mr. Nassar said that he made appointments to meet with potential customers and agreed to come to the dealership. Mr. Komanich testified that Mr. Nassar at first said he did not have an office on the premises but, when advised that he had to have an office on premises, said that he did.

²² Tex. Occ. Code § 2301.651(a)(3)-(4).

²³ See Tex. Occ. Code §§ 2301.651, .654; 43 TAC §§ 215.141, .500.

²⁴ 1 TAC § 155.427.

When Mr. Nassar arrived, he opened a dilapidated gate to gain access to the office. In the building, there was a mud room, a kitchen, an open room with a desk and two chairs, then what appeared to be a bedroom. The bedroom had a cot, a television, DVDs, and clothes hanging in the closet. Mr. Nassar told him no one was “living” in the office, but that a man was allowed to sleep there. Mr. Komanich testified that he believed someone was using the building as a residence.

Mr. Komanich also testified that the location did not appear to be actively selling cars. There was no sign with business hours, and there was no employee present. There were 12-15 vehicles in the fenced-in area that were not accessible to the public because the gate was chained and locked. Mr. Komanich testified that he stayed on site less than an hour. As was his custom, he did not revisit the site. He did not know whether any premises violations had been remedied.

Mr. Komanich testified that a dealer is supposed to issue one buyer’s tag per sale on the day of the sale. The dealer has a unique password to the system. The dealer enters the sale into the database, the system generates a buyer’s tag, which the dealer prints. Upon issuing the tag, the dealership has 30 days to transfer title and send metal plates to the buyer.

Mr. Komanich testified that Mr. Nassar said that he was the only person allowed to access the Department’s buyer’s tag system. Mr. Nassar told him that he typically sold about five cars per month and had sold only one in January 2020 but could not explain why his GDN license had issued 117 buyer’s tags that month. Mr. Komanich testified that Respondent’s account issued 1,600 buyer’s tags from January through September 1, 2019, and an additional 1,400 tags between September 2019 and July 2020. Mr. Komanich testified that 3,000 was an unusually high amount of tags to be issued by a small, independent used car dealer with few cars on the lot. Respondent filed with the Jefferson County Tax Assessor/Collector a Dealer’s Motor Vehicle Inventory Tax Statement that reported Respondent’s vehicle sales.²⁵ In January through August 2019, Respondent reported only one sale—in March 2019.²⁶

²⁵ Staff Ex. 5.

²⁶ Staff Ex. 5.

Mr. Komanich testified that he saw the business sign painted on the side of the building but did not know if it was visible from the nearest main street; he said it might be visible. He testified that the later-posted business-hours sign's representation that Respondent was open by appointment on both Saturday and Sunday would violate Texas blue laws. He said that an employee on duty who has to leave the premises during posted business hours should put up a "be-back" sign indicating the expected time of return. Mr. Komanich testified that dealers are required to transfer title to the buyer and to apply for metal plates within thirty days, and that allowing a customer to transfer title violated state law.

Department Investigator Dixon testified that he accompanied Mr. Komanich on the site visit. When they arrived at the site, they called Mr. Nassar from the convenience store and had to wait 30-40 minutes for him to arrive. Mr. Dixon said the site violated requirements for a business sign, posted hours, and employees present. The fence surrounding the vehicles was a bit broken down, and the vehicles did not have sales information posted on them. Inside the office was a computer screen and a printer. One room looked like someone had slept in it the night before. Mr. Dixon testified that Mr. Nassar said he sold approximately five vehicles per month. Although dealers are supposed to provide sales records on site upon request, Mr. Nassar did not produce any sales records, when requested.

Department Chief Investigator George testified about the system for generating the temporary license tags. The dealer's user name and password are the only security for entry to the system. The dealer can allow others to use that security information. When the licensed dealer sells a vehicle, the dealer must report the sale electronically to the Department, generating a buyer's tag. That tag can be placed only on the vehicle sold. The buyer's tag can be used only on a vehicle sold from the dealer's inventory, and there is only one tag per sale absent theft or damage of the tag, which prompts a process for voiding that original tag. Mr. George testified that the dealer is responsible for use of the account and can monitor his own account. He said Mr. Nassar is the sole proprietor and did not change his password, even after the investigators' visit.

Mr. George testified that dealers are required to maintain sale records and inventory. The sales records and tag issuance should be reconcilable with the inventory tax report from the county's tax records. Mr. George testified that, while a dealer could sell 3,000 cars, that was not a common amount of sales. He testified that the amount of sales Respondent reported caused concern compared to the number of tags issued. Mr. George testified that Respondent continued to issue an unusually high level of buyer's tags after the investigators' visit. Mr. George testified that some dealers were offering buyer's tags over the internet to help the people avoid insurance and inspection and disguise ownership. Such abuse of the system results in lost registration fees and reduced tax collection among other harms.

Vidor Police Department Detective Ed Martin testified that he investigates fraudulent eTags issued through the Department's system. He testified that he has stopped 40 to 50 vehicles with buyer's tags from Respondent and that they were not legitimate tags. When investigation showed the tags were being sold at a convenience store in Beaumont, he turned the case over to the Beaumont Police Department and contacted Department investigators. He testified that licensed car dealers were selling temporary license tags for \$50-\$100 unconnected to any vehicle sales.

Vidor Police Department Officer Matthew Custer testified that he filed a complaint after stopping a vehicle that had a Texas dealer authorized agent tag from Respondent. The vehicle identification number indicated that it was a salvaged vehicle, which is illegal to operate on public roads. The driver was not an agent of Respondent. Officer Custer had never met Mr. Nassar and had no first-hand knowledge of Respondent.

Mr. Nassar testified that he owns Respondent. He testified that he sold the following number of vehicles in 2020: January, 0; February, 0; March, 6; April, 1; May, 5; June, 1; and July, 1.²⁷ He estimated that he had printed four or five tags since January. He denied having printed 27 tags in January 2020, 16 in March 2020, or 17 in April 2020. Mr. Nassar testified that he changed

²⁷ See also Staff Ex. 7 for all but July 2020.

his password in February. He testified that he believed customers must come back with an inspection and insurance to claim the buyer's tag. He testified that he sometimes gave buyer's tags to buyers while they were getting their title registered. He denied providing buyer's tags to friends who needed them to go to work or telling investigators that he did so. He denied giving tags to a non-buyer and denied giving out 3,000 tags. He said he did not know who else might be using his account.

Mr. Nassar testified that he was at the Department office getting registrations for vehicles changed when the investigators came for their January 2020 site visit. He testified that the sign for the business had been painted on the building wall four years before the visit and was visible from the nearest main street.²⁸ He said he put up a sign listing hours within days of the visit,²⁹ though he admitted he did not know car lots could not be open on both Saturday and Sunday. He testified that there was an office on site when they visited.³⁰ He denied that anyone lived at the site. Mr. Nassar testified that he did not notify the Department that he had corrected any of the violations discussed during the visit.

IV. ANALYSIS

The Department's Notice of Department Decision states that Respondent holds a GDN license from the Department and violated the following provisions of Texas law:

1. Respondent, a licensee, on or about 1/23/2020, operated as a dealer from a location that does not meet the requirements of an established and permanent place of business by operating out of a residence and failing to fulfill all other premises requirements (business sign, posted hours, employee present) in violation of Tex. Transp. Code Ann. § 503.032 and 43 Tex. Admin. Code § 215.140.
2. Respondent, a licensee, misused a buyer's temporary tag or failed to comply with the requirements for issuance or recordkeeping of the buyer's temporary tag from on or

²⁸ Respondent Ex. B, p. 103.

²⁹ Respondent Ex. B, p. 102.

³⁰ Respondent Ex. B, pp. 104-05.

about 01/01/2019 to 09/01/2019, in violation of Tex. Transp. Code Ann. §§ 503.063 and 503.0631 and 43 Tex. Admin. Code §§ 215.151, 215.152, 215.153 and 215.155. Specifically, Respondent reported one vehicle sale to the local tax authority, but issued 1951 buyer's temporary tags during the same time frame.

The Notice of Department Decision informed Respondent that Staff recommended assessment of a \$25,000 penalty and revocation of Respondent's GDN license.³¹

A. Respondent violated provisions requiring the posting of business hours.

On January 23, 2020, Respondent violated some of the requirements for an established and permanent place of business for a GDN holder.³²

Respondent did not post its business hours as required. A retail dealer must post the business hours for each day of the week at the main entrance of its office that is accessible to the public.³³ Respondent did not have such a sign when the investigators visited. Respondent testified that he posted an hours sign within a week of the site visit.³⁴ Respondent did not provide the sign to the Department before the hearing. Mr. Komanich testified that the hours posted in the new sign violated Texas's prohibition against car dealers operating on both days of the weekend.

No one was present at Respondent's office when the investigators arrived. The owner or a bona fide employee of the retail dealer must be at the licensed location during the posted business hours or must, if unavailable due to special circumstance or emergency, post a separate sign indicating the date and time the retail dealer will resume operations.³⁵ No employee or owner of Respondent was present when the investigators arrived, and no sign was posted indicating when an employee would be there. Because there were no posted hours, the Department could not show

³¹ Staff Ex. 2.

³² See Tex. Transp. Code § 503.032; 43 TAC § 215.140.

³³ 43 TAC § 215.140(1)(B).

³⁴ Respondent Ex. B, p. 102.

³⁵ 43 TAC § 215.140(1)(B).

a violation of the requirement that an employee be present during posted business hours. However, the Department did show that no sign was posted stating when the dealer would resume operations.

Respondent had a sufficient business sign. The business must display a conspicuous, permanent sign with letters at least six inches in height showing the retail dealer's business name permanently mounted at the address listed on the application.³⁶ A sign with the name of the business was painted on the wall of the portion of the building behind the fence where the vehicles were located.³⁷ It was visible from the nearby street. No violation of the sign requirement is shown.

A dealer's office may not be located within a residence, apartment, hotel, motel, or rooming house.³⁸ Mr. Nassar admitted that a man was sleeping in a room in the portion of the building occupied by Respondent, but said the man was not "living" there. Proof of this allegation turns largely on the nature of what a "residence" is.

The relevant parts of the Transportation Code and Administrative Code do not define "residence." A residence is "[t]he place where a man makes his home, or where he dwells permanently or for an extended period of time."³⁹ While not binding here, the Texas Elections Code defines residence as "one's home and fixed place of habitation to which one intends to return after any temporary absence."⁴⁰ That code further provides that a person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home.⁴¹

Although Mr. Komanich described the building as a "residence," he also testified that the dealer's office was under the same roofline as a convenience store. Respondent's portion of the

³⁶ 43 TAC § 215.140(3); *see also* Tex. Transp. Code § 503.032(a)(2)(B).

³⁷ Respondent Ex. B, p. 103.

³⁸ 43 TAC § 215.140(5)(C).

³⁹ [TheLawDictionary.org/residence/](https://www.thelawdictionary.org/residence/). Last visited on October 15, 2020.

⁴⁰ Tex. Elections Code § 1.015(a).

⁴¹ Tex. Elections Code § 1.105(d).

building had its own entrance and had the dealer's sign painted on its outside wall. The fenced-in area outside the door to the dealer's office had 12-15 vehicles in it. In Respondent's portion of the building, there was a kitchen; a room with a desk, chairs, and a computer monitor; and a room with a cot, clothes, a television, DVDs, and food wrappers. There was no additional evidence at the hearing about the man who was sleeping in the room—who he was, how long he had been there or planned to stay there, and whether, for example, he provided that address as his home address. The record indicates that his stay was more than one night, but is not sufficient to prove that Respondent's portion of the building was a residence with a dealer's office in it, rather than a dealer's office that had a temporary overnight occupant in part of it. The statute and rules prohibit a dealership from operating out of a residence, but do not prohibit a person from sleeping in the office unless the nature of the stay converts the office into a residence. No violation of the prohibition of operating a dealership out of a residence is shown.

B. Respondent admitted printing an unspecified number of extra tags for vehicles he sold, but Staff otherwise failed to prove Respondent violated the cited statutes concerning Respondent's alleged failure to comply with requirements for issuance or record-keeping of buyer's temporary tags from on or about 01/01/2019 to 09/01/2019.

Staff produced undisputed evidence that, between January 1, 2019, and September 1, 2019, Respondent's access to the Department's database was used to issue 1,648 buyer's tags that are not linked to a vehicle sold by Respondent.⁴² However, Staff did not prove that Respondent was involved in the obtaining or issuance of most of the excess tags.

The one vehicle Respondent reported selling between January 1, 2019, and September 1, 2019, is on the eTag report for Respondent.⁴³ There is no evidence that Respondent

⁴² Staff Ex. 6. Exhibit 6 lists the 1,649 buyer's tags issued on Respondent's account on 53 pages between January 1, 2019, and September 1, 2019. The report contains just more than ten additional pages of Dealer agent tags and Dealer vehicle specific tags issued during that same period. This may account for the additional 342 tags alleged to have been issued on Respondent's account. The eTag report also lists hundreds more tags issued from September 2, 2019 through July 31, 2020, but tags issued during that period are not part of the Notice of Department Decision.

⁴³ Compare Staff Ex. 5, p. 9 (inventory tax statement, listing sale date of March 19, 2019) with Staff Ex. 6, p. 8 (eTag report, listing sale date of March 4, 2019).

failed to comply with any of the cited statutes or regulations regarding the temporary buyer's tag for that vehicle.

The uncontroverted evidence that Respondent's access to the Department's database was used to issue 1,648 excess buyer's tags does not prove that the Respondent violated any of the statutes or rules cited in the Notice of Department Decision. The evidence that tags were being sold at a Beaumont convenience store is uncontroverted, but there is no evidence in this record that Respondent was connected to the sales of those tags. Mr. Komanich testified that a licensed dealer could run reports that would show the number of tags issued relating to the dealer's GDN, but there is no evidence that Mr. Nassar ran the reports or was aware that he could do so; more critically, none of the cited statutes and rules imposes a duty on the dealer to run such reports.

Texas Transportation Code § 503.063(a) provides that a dealer shall issue to a person who buys a vehicle one temporary buyer's tag.⁴⁴ Respondent admits it sold one—not 1,649—vehicles during the stated period. Though Mr. Nassar admitted that he printed more than one buyer's tag for some undisclosed of his limited number of buyers, Mr. Nassar denied giving tags to non-buyers and denied giving out 3,000 tags.

Texas Transportation Code § 503.063(d) states that “[t]he dealer is responsible for the safekeeping and distribution of each buyer's tag the dealer obtains.” But there is no evidence that *Respondent* obtained the bulk of the 1,648 excess tags. Mr. Nassar's denial of knowledge of the tags is not conclusive, but is not met with contrary evidence.⁴⁵ Though Mr. Nassar testified that he was the only person who knew Respondent's password for the Department's database, there is no evidence in the record that Mr. Nassar entered the request for the tags, printed them, possessed or

⁴⁴ Tex. Transp. Code § 503.063(a).

⁴⁵ The regulation holding the dealer responsible for tags the dealer “obtains” imposes a different type of responsibility and theory of culpability than the regulations applicable to motor vehicle inspectors, under which “[v]ehicle inspectors and all other authorized users are held accountable for the security and confidentiality of all assigned access processes including, but not limited to, passwords, protocols, tokens, or access/identification cards.” 37 TAC § 23.21(c).

sold them, received funds from their sale or exchanged them for other compensation, or had any connection to the Beaumont convenience store where the tags were alleged to have been sold. The inference that Mr. Nassar gave Respondent's password to someone else is balanced by the possibility that the password was obtained without his knowledge. Without evidence that Respondent obtained the tags, no duty for safekeeping and distribution of the tags attached to Respondent under subsection (d).

Under Transportation Code § 503.063(g), the dealer is required to charge the "buyer" a \$5 registration fee for each buyer's tag.⁴⁶ But the excess tags were not tied to a buyer of a vehicle sold by Respondent.

The other statute and rules cited by Staff also do not show violations on the record presented. Texas Transportation Code § 503.0631(c) and 43 TAC § 215.152(b) require a dealer to enter information into the Department's database before a buyer's tag may be displayed on a vehicle. The rule requiring the dealer to secure the tag to the vehicle so that all information is visible contemplates the dealer being involved in the procurement and placement of the tag, which is absent here.⁴⁷ There is no showing that Respondent failed to have an internet connection⁴⁸ or that the 1,648 illicit tags failed to meet material specifications.⁴⁹ The requirement that the dealer ensure that specific information is placed on a buyer's tag applies to "a buyer's temporary tag that the dealer issues."⁵⁰

Although there is undisputed evidence that Respondent's GDN license has been used to produce hundreds of buyer's tags not properly tied to vehicles sold by Respondent, Staff failed to carry its burden to prove that Respondent violated the statutes cited in allegations paragraph 2 of

⁴⁶ See also 43 TAC § 215.155(f).

⁴⁷ 43 TAC § 215.151.

⁴⁸ 43 TAC § 215.152(a).

⁴⁹ 43 TAC § 215.153.

⁵⁰ 43 TAC § 215.155(e).

the Notice of Department Decision except as to the unspecified, but plural, number of buyer's tags Mr. Nassar admitted to printing for unspecified buyers.

C. Appropriate Sanctions.

Staff proved that Respondent violated 43 Texas Administrative Code § 215.140(1)(B) by failing to have business hours posted at the licensed location on January 23, 2020. The Department's penalty matrix establishes a penalty range for this violation of between \$500 if cured and revocation if not cured.⁵¹ Mr. Nassar introduced evidence that he attempted to correct the violation by posting hours of operation after the investigators' visit, but Mr. Komanich testified that the posted hours violated blue laws by stating that Respondent was open by appointment on both Saturday and Sunday. This is a serious violation because it leaves the public unaware of when the dealership is open. The attempted fix created a new problem, consistent with Respondent's expressed lack of understanding of other statutes and regulations governing operation of a dealership. The ALJ recommends a penalty of \$500 for this violation.

Staff proved that Respondent further violated 43 TAC § 215.140(1)(B) by failing, in the absence of having an employee on site, to post a sign stating when the dealer would resume operations. The matrix lists a penalty of \$500 if cured, up to \$1,000. Mr. Nassar came to the dealership when called, and no subsequent violation is shown. The ALJ recommends a penalty of \$500 for this violation.

Mr. Nassar admitted that he printed more than one buyer's tag for at least two buyers. This is a serious violation of Respondent's responsibilities as a dealer. There is no history of violations by Respondent, but Mr. Nassar's claim that he did not know he could not print more than one buyer's tag for a sold vehicle is concerning—particularly in the context of the number of tags that were produced by his account. Based on Mr. Nassar's testimony, Respondent is now aware that it

⁵¹ https://www.txdmv.gov/publications-tac/doc_download/8520-motor-vehicle-dealers-disciplinary-matrix. Last visited October 15, 2020.

can supply only one buyer's tag per sale. This failure to follow the procedure for issuance of a buyer's tag is subject under the matrix to a penalty of up to \$2,000 per tag. The ALJ recommends a penalty of \$4,000 for the proved violations.

The failure to post hours does not support cancellation or revocation of Respondent's GDN license. The undisputed evidence is that Respondent corrected the hours-posting violation within a week of the investigators' visit, although Staff opined that the offer of being available by appointment on both Saturday and Sunday violated Texas law prohibiting a car dealer from being open both days of the weekend. The evidence was that Mr. Nassar was conducting dealership business at the Department office when the investigators arrived and responded promptly when summoned to the dealership.

The Department may cancel a GDN if the dealer if the dealer "misuses or allows the misuse of a temporary tag authorized under this chapter."⁵² There is evidence that tags were misused, but there is no evidence in the record that Respondent misused a buyer's tag itself. "Allow" means "To grant, approve, or permit."⁵³ "Permit" means to consent to expressly or formally, to give leave, or to make possible.⁵⁴ To "allow" misuse implies some sort of knowledgeable consent or at least awareness and neglect, of which there is no evidence in this record.

This proceeding has placed Respondent on notice, however, that its GDN license has been abused, and Respondent has been told how to monitor the issuance of buyer's tags pursuant to that license to prevent further abuse.⁵⁵ The evidence in the record puts Respondent on notice of the seriousness of the failure to control the printing of buyer's tags. Because of this knowledge, if Respondent fails to secure its access to the Department database and fails to monitor the issuance

⁵² Tex. Transp. Code § 503.038(a)(12).

⁵³ <https://thelawdictionary.org/allow/>. Last visited October 15, 2020.

⁵⁴ <https://www.merriam-webster.com/dictionary/permit>. Last visited October 15, 2020.

⁵⁵ Evidence showed that excessive buyer's tags were generated even after the site visit, but those tags were not within the Notice of Department Decision forming the basis of this proceeding.

of buyer's tags tied to Respondent's GDN license, Respondent could be deemed to have "allowed" any buyer's tags issued unrelated to vehicles sold by Respondent from this point forward.

V. FINDINGS OF FACT

1. Respondent Jay Enterprise, Inc. d/b/a M&M Auto Sales holds General Distinguishing Number (GDN) P133025, a license issued by the Department of Motor Vehicles (Department) Motor Vehicle Division on March 15, 2016. Respondent's address is 2735 Rev. Dr. Ransom Howard Street, Port Arthur, Texas.
2. Respondent is owned by Amjad Nassar.
3. The Department received complaints that buyer's temporary tags issued by Respondent were being misused.
4. On Thursday, January 23, 2020, Department investigators performed a site visit on Respondent at 2735 Rev. Dr. Ransom Howard Street, Port Arthur, Texas.
5. Respondent shares a building with a convenience store, but has a separate entrance within a fenced car lot set back from Rev. Dr. Ransom Howard Street.
6. Respondent's business sign was painted on the side of the building near the fenced lot.
7. No employee of Respondent was on site when Department investigators arrived. No sign was posted stating when the dealership would reopen for business.
8. Mr. Nassar came to the dealership when requested by the investigators, and there is no evidence of any subsequent violation of the requirement that an employee be on site during operating hours.
9. No sign listing Respondent's business hours was posted when Department investigators visited.
10. Within days of the investigators' visit, Respondent put up a sign listing operating hours. The sign posted hours that, if used, violated blue laws by stating that Respondent was open by appointment on both Saturday and Sunday
11. Office equipment, including a monitor and a printer, were present in Respondent's office when Department investigators visited.
12. The office contained a room that someone had slept in recently before Department investigators visited. The room contained a cot, clothing, a television, DVDs, and food wrappers.

13. There was no evidence regarding the person who slept in the office, such as how long he had stayed there or intended to stay there.
14. A dealer is supposed to create one buyer's tag per sale.
15. Mr. Nassar admitted to printing more than one buyer's tag for unspecified buyers.
16. Respondent's motor vehicle inventory tax statements filed with the Jefferson County Tax Assessor/Collector report only one vehicle sold from January 1, 2019 through September 1, 2019. These reports state that Respondent's GDN is P133025.
17. Department records of license tags created by user Amjad Nassar and Dealer Jay Enterprise Inc. on Dealer GDN P133025 include 54 pages listing approximately 1,649 buyer's tags between January 1, 2019, and September 1, 2019.
18. There is no evidence that Mr. Nassar entered the request for the most of the 1,648 tags not tied to the one sale during that period, or that he printed them, possessed or sold them, received funds from their sale, or had any connection to the Beaumont convenience store where the tags were alleged to have been sold.
19. There is no evidence that Mr. Nassar knowingly supplied Respondent's password to someone else.
20. A Notice of Department Decision was issued on January 29, 2020. The Notice alleged that Respondent violated statutes and rules relating to the permanent place of business on January 23, 2020, and regarding the use of and issuance and recordkeeping for buyer's tags from on or about January 1, 2019 to September 1, 2019.
21. By letter dated April 15, 2020, the attorney for the Department's Enforcement Division sent Notice of Hearing to Respondent in care of its attorney, Bryan S. Laine.
22. The notice of hearing provided the date, time, and place of a preliminary hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
23. On August 13, 2020, the ALJ convened the hearing on the merits via videoconference. Attorney H. Karen Meisel represented Staff. Bryan S. Laine represented the Respondent.
24. On August 21, 2020, Staff filed a brief stating that, while the Department is authorized by statute and rule to deny, revoke, probate, and suspend a license, the Department does not have a mechanism in place to suspend a license. Further, Staff asserts that the Department's licensing system is not equipped to track a suspended or probated license.

25. The record closed on August 28, 2020, when the period for Respondent's reply to Staff's brief expired.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction and authority to revoke, probate, or suspend a license to sell a motor vehicle, and to reprimand a license holder. Tex. Occ. Code § 2301.651.
2. The State Office of Administrative Hearings (SOAH) has jurisdiction over all matters relating to the conduct of a hearing in this case, including the preparation of a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Occ. Code § 2301.704.
3. Respondent received proper notice of the Department Decision and of the hearing on the merits. Tex. Occ. Code §2301.705; Tex. Gov't Code §§ 2001.051-.052.
4. Respondent should pay a penalty of \$4,000 for printing more than one buyer's tag for buyers of vehicles. Tex. Transp. Code § 503.063(a).
5. Respondent should pay a penalty of \$500 for its failure to post its business hours for each day of the week at the main entrance of the retail dealer's office that is accessible to the public. 43 Tex. Admin. Code § 215.140.
6. Respondent should pay a penalty of \$500 for its failure, in the absence of having an employee on site, to post a sign stating when the dealer would resume operations. 43 Tex. Admin. Code § 215.140.

SIGNED October 27, 2020.



DAVID DUBOSE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



Texas Department of Motor Vehicles

FILED
608-20-3330
11/12/2020 10:34 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

ENFORCEMENT DIVISION
4000 Jackson Avenue – Austin, Texas 78731
Telephone (512) 465-4204 – FAX (512) 465-5650

ACCEPTED
608-20-3330
11/13/2020 9:33 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

November 12, 2020

Deputy Clerk
State Office of Administrative Hearings
PO Box 13025
Austin TX 78711-3025
VIA ELECTRONIC FILING

**RE: IN THE MATTER OF THE LICENSE OF
JAY ENTERPRISE
D/B/A M&M AUTO SALES
MVD CAUSE NO. 19-0014862.ENF
SOAH DOCKET NO. 608-20-3330.ENF**

Dear Clerk:

Please find enclosed Petitioner's Exceptions to the Proposal for Decision. A copy of this response has been forwarded to Respondent.

Should you have any questions, you may contact me at (512) 465-4145.

Sincerely,

H. Karen Meisel, Attorney
Enforcement Division

cc: Bryan S. Laine,
Attorney for Respondent
1104 Orleans St.
Beaumont, TX 77701
VIA US MAIL and E-Mail

Bryan S. Laine
Attorney for Respondent
1045 S. Redwood
Kountze, Texas 77625
VIA US MAIL and E-Mail

**MVD CAUSE NO. 19-0014862.ENF
SOAH DOCKET NO. 608-20-3330.ENF**

IN THE MATTER OF THE LICENSE OF JAY ENTERPRISE d/b/a M&M AUTO SALES	§ § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
--	-----------------------	---

PETITIONER’S EXCEPTIONS TO PROPOSAL FOR DECISION

Comes Now, Petitioner, the Texas Department of Motor Vehicles, and files its exceptions to the Proposal for Decision issued by the Administrative Law Judge (“ALJ”) in this matter on October 27, 2020. Petitioner objects to certain findings set forth in the Proposal for Decision, as shown below.

PROCEDURAL HISTORY

The Notice of Hearing¹ was filed on April 15, 2020, and the hearing took place on August 13, 2020 at the State Office of Administrative Hearings (“SOAH”) via Zoom videoconference technology. On October 27, 2020, the ALJ provided all parties with the Proposal for Decision (“PFD”). The ALJ issued Findings of Fact and Conclusions of Law that supported violations of Tex. Trans. Code § 503.063(a), relating to buyer’s tag issuance, and violations of 43 Tex. Admin. Code § 215.140, relating to premises requirements. The ALJ recommended a penalty of \$5,000 for the violations.

EXCEPTIONS

The PFD clearly restates much of the relevant evidence that was presented at hearing. The ALJ finds that Respondent *did* commit violations of both allegations from the Notice of Department Decision (NODD), dated January 29, 2020. However, in offering Findings of Fact and Conclusions of Law to the Board of Motor Vehicles (“Board”), the ALJ disagrees that there is evidence supporting the allegation that Respondent misused a large number of buyer’s temporary tags. In the proposed decision, the ALJ agrees there was evidence of buyer temporary tag misuse by this Respondent, but on a smaller scale. In sum, the court only found Respondent in violation of allegations that Respondent admitted to at hearing.

The bulk of Petitioner’s case involved the issuance of 1600+ buyer’s temporary tags during the charged time period from Respondent’s dealer e-Tag account. In analyzing the evidence, the ALJ declined to attribute this abuse to any acts or omissions by this Respondent. In doing so, the ALJ appears to deviate from the duty a license holder has to the Board to adhere to the statutes and rules that apply to that license, and to have full knowledge of the provisions in place to regulate that license.

In the PFD, the ALJ found that the Respondent committed premises violations by failing to post business hours and failing to have an employee at the licensed location or alternatively failing to properly notify the public as to when the Respondent would be present again for business. The evidence showed that Respondent’s premises were not being staffed per the Department’s requirements nor were business hours posted. Then, when at hearing, Respondent offered evidence of his attempts to properly post business hours, it was shown that Respondent’s corrections lead to yet another premises violation: violation of the blue law restrictions that

¹ See Petitioner’s Exhibit 4, pages 1-28.

prohibit a dealer from being open for business on both Saturday and Sunday of any given week. To date, Respondent has not demonstrated full compliance with Department premises violations.

Whereas the ALJ seemed to agree that the Respondent had a duty to meet premises requirements and to make himself affirmatively aware of those requirements, he did not apply the same standard to Respondent's duty to manage and monitor his e-Tag account and mitigate abuse of that system. However, Tex. Trans. Code § 503.063(d) states, "The dealer is responsible for the safekeeping and distribution of each buyer's tag the dealer obtains." This provision alone indicates dealer responsibility for the issuance of buyer's tags from the dealer's account. It does not specify that the dealer must *knowingly* obtain these tags, as the ALJ proffers in the PFD.

While this Respondent maintained that he was the only one with access to his account, many dealers have multiple employees that are also given access to the dealer's e-Tag accounts. Such dealer access is statutorily available on a 24-hour basis, and with that access comes the capability to monitor the usage on the account at any given moment. The ALJ appears to excuse Respondent of any duty to actively monitor his account by stating it is not clear that Respondent is aware of that capability, and the statutes and rules do not specify that the Department expects dealers monitor their account activity. Petitioner disagrees. When the Department grants a dealer the privilege of a license, they entrust them with the security, benefits, and responsibilities of the e-Tag system, as well as the liabilities that necessarily follow. Furthermore, there is no evidence or allegation that this dealer's account was hacked or otherwise compromised. Respondent's testimony was that he simply didn't know how all the tags were issued.

Further, the ALJ cites Tex. Trans. Code § 503.083(a)(12) and applies his analysis using this provision. However, Petitioner did not plead this provision in its allegations. In the

NODD², Petitioner plead Tex. Trans. Code §§ 503.063, 503.0631, 43 Tex. Admin Code §§ 215.151, 215.152, 215.153, and 215.155 as authority for the tag violations.

To state the violations simply, Respondent's account shows a high number of buyer's temporary tags issued from January 1, 2019 through September 1, 2019 (about 1600 tags).³ During the time frame alleged in the NODD, Respondent only reported one vehicle sale to the local tax authority. Any buyer temporary tags issued in excess of that sale would be violations *per se*. By a strict reading of the statute, Tex. Trans. Code § 503.063(a), "Except as provided by this section, a dealer shall issue to a person who buys a vehicle one temporary buyer's tag for the vehicle"... it is plainly clear that a dealer who issues more than one tag, or even a dealer who issues a tag in the absence of a sale is in violation of this chapter.

In reaching the conclusion that the court does here, that the Department must affirmatively prove that it was *this* Respondent who acted intentionally to misuse the tags and not some other bad actor, it is clear from this court's analysis that the Department would likely never meet this burden unless a Respondent decides to come clean about the misuse at hearing. Such a result is incredibly challenging as the Department cannot actively monitor each tag that is issued. With this result, any dealer in Texas can claim lack of knowledge to overcome tag abuse violations and escape the resulting penalties and sanctions that punish such abuse.

Further, Petitioner disagrees that there is any *intent* requirement to be read into the provisions in Tex. Trans. Code § 503.063. Upon analysis of other parts of this statute, for

² See Petitioner's Exhibit 4, pages 1-28.

³ Evidence was also presented in *Petitioner's Exhibit 6* that approximately 1400 more buyer's temporary tags were issued by Respondent's E-Tag account after the time period alleged in the NODD (from September 2, 2019 to July 31, 2020). This evidence, even after the visit in January 2020 by Department Investigators, demonstrates a "conscious indifference" on the part of this Respondent to the seriousness of the temporary tag violations. At the very minimum, it speaks to Respondent's negligence in monitoring his E-Tag account.

instance, in the portion of the statute that makes tag violations a criminal violation,⁴ it is clear the Legislature intended tag violations to be strict liability violations. In Tex. Trans. Code § 503.094, the Legislature establishes a criminal penalty for all violations of this chapter, including tag violations,⁵ and further distinguishes between strict violations and those that are committed willfully or with conscious indifference to law.⁶ The minimum violation of this chapter is a Class C misdemeanor, whereas the maximum is a state jail felony for those that are committed willfully or with conscious indifference.⁷ Regardless of the level of violation asserted, it is clear from reading this portion of the statute that the Legislature intended to make even a minimal unknowing violation of the statute a criminal act.

When all of the evidence and applicable statutes and rules are weighed by the court and the Board, the reasonable conclusion one arrives at is that the Respondent, whether he openly admits it or not, is responsible for the extreme misuse of his dealer E-Tag account. It is a bit of a stretch to find that a “head in the sand” approach to tag activity can absolve a dealer of responsibility for their own account, and Petitioner believes the Board will agree that there is a price that must be paid for the breach of that duty.

I. EXCEPTIONS TO FINDINGS OF FACT

Petitioner excepts to the Findings of Fact, as noted:

⁴ Tex. Trans. Code § 503.094.

⁵ Tex. Trans. Code § 503.094 (a) A person commits an offense if the person violates this chapter.

⁶ Tex. Trans. Code § 503.094 (c) “If the trier of fact finds that the person committed the violation willfully or with conscious indifference to law, the court may treble the fine otherwise due as a penalty for a violation.”

⁷ Tex. Trans. Code § 503.094 (d).

Petitioner respectfully requests that the ALJ add in, after Finding of Fact 19, an additional statement: "There is no evidence that Respondent's dealer account was hacked or otherwise compromised during the period of time charged."

II. EXCEPTIONS TO CONCLUSIONS OF LAW

Petitioner respectfully requests that the ALJ revise Conclusion of Law 4 to read:

"Respondent should pay a penalty of \$25,000 for printing more than one buyer's tag per vehicle sale. Texas. Trans. Code § 503.063(a).

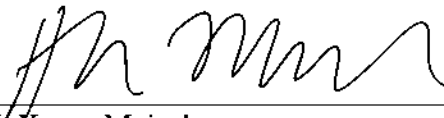
Petitioner respectfully requests that the ALJ add Conclusion of Law 7 to read:

"Respondent's dealer's license should be revoked for serious violations of the Department's statutes and rules. Tex. Trans. Code § 503.038(a)(14)."

PRAYER

WHEREFORE PREMISES CONSIDERED, Petitioner prays that the Administrative Law Judge consider these exceptions, and revise the proposal for decision to find that Respondent has misused the buyer's temporary tag database and recommend Revocation of Respondent's license and that Respondent be required to pay a \$25,000 civil penalty.

Respectfully submitted,



H. Karen Meisel
Attorney, Enforcement Division
Bar Card No. 24038890
4000 Jackson Ave
Austin, Texas 78731
(512) 465-4145
(512) 465-5650 Fax

CERTIFICATE OF SERVICE

I certify that on November 12, 2020, a true and correct copy of Petitioner's Exceptions to the Proposal for Decision was served on the following individuals at the locations and the manner indicated below.

Electronic Filing

Docket Clerk

State Office of Administrative Hearings

300 West 15th #504

Austin, Texas 78701

First Class Mail:

Bryan S. Laine,

Attorney for Respondent

1104 Orleans St.

Beaumont, TX 77701

VIA US MAIL and E-Mail

Bryan S. Laine

Attorney for Respondent

1045 S. Redwood

Kountze, Texas 77625

VIA US MAIL and E-Mail



H. Karen Meisel

FILED
608-20-3330
1/15/2021 9:30 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK



ACCEPTED
608-20-3330
1/15/2021 9:35 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

January 15, 2021

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

VIA EFILE TEXAS

RE: Docket No. 608-20-3330.ENF; MVD Docket No. 19-0014862.ENF/
The Texas Department of Motor Vehicles, Enforcement Division v. Jay Enterprises,
Inc. d/b/a M&M Auto Sales

Dear Mr. Avitia:

The Proposal for Decision (PFD) in this case was issued on October 27, 2020. On November 13, 2020, Staff (Staff) of the Texas Department of Motor Vehicles (Department) filed exceptions to the PFD. Jay Enterprises, Inc. d/b/a M&M Auto Sales (M&M) did not file exceptions or a response to Staff's exceptions.

Staff disagrees with the ALJ's application of the statutes and rules governing Respondent's duty to manage and monitor his e-Tag account and mitigate abuse of that system. Staff contends that the ALJ's application of the statutes¹ and rules imputes knowledge and intent requirements that are not present in the statutes and sets a standard that the Department would likely never meet. The ALJ considered these issues when drafting the PFD, and has reviewed them in response to Staff's exceptions. The ALJ does not recommend any changes to the PFD.

¹ Staff asserts that "the ALJ cites Tex. Trans. Code § 503.083(a)(12) and applies his analysis using this provision. However, Petitioner did not plead this provision in its allegations." The ALJ did not cite § 503.083 in the PFD, but instead cited § 503.038(a) and § 503.038(a)(12), consistent with the citation of "Texas Transportation Code § 503.038" on page one of the Notice of Department Decision, dated January 29, 2020.

SOAH Docket 608-20-3330.ENF
MVD Docket No. 19-0014862.ENF
Exceptions Letter by ALJ
January 13, 2021
Page 2 of 2

Staff requests that the following additional statement be added in after Finding of Fact 19:

There is no evidence that Respondent's dealer account was hacked or otherwise compromised during the period of time charged.

The Administrative Law Judge (ALJ) recommends that the Finding not be amended as requested.

Staff also requests that Conclusion of Law 4 be revised to provide as follows:

Respondent should pay a penalty of \$25,000 for printing more than one buyer's tag per vehicle sale. Tex. Transp. Code § 503.038(a)(14).

The ALJ recommends that the Conclusion not be revised as requested.

Sincerely,



David DuBose
Administrative Law Judge

DD/jh

cc:

H. Karen Meisel, Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 400 Jackson Ave., Austin, TX 78731 - **VIA EFILE TEXAS**
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL** (with 1 hearing CD; Certified Exhibits)
Bryan Laine, 1045 S. Redwood, Kountze, TX 77625 - **VIA E-FILE TEXAS**

DATE: August 5, 2021

Action Requested: ACTION ITEM

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Tracey Beaver, General Counsel
Agenda Item: 6
Subject: Consideration and Approval of Proposed Final Order on Enforcement Case *Texas Department of Motor Vehicles v. Boss Exotics*; MVD Docket 17-0075684.ENF., SOAH Docket No. 608-20-0460ENF.

PURPOSE AND EXECUTIVE SUMMARY

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

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

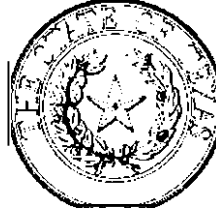
Respondent currently holds a general distinguishing number license (GDN) issued by the Department. Based on an investigation performed by the Enforcement Division, staff sent Boss Exotics (Respondent) a Notice of Department Decision, alleging eleven separate violations of chapters 502, 503, and 504 of the Texas Transportation Code, Board rules adopted under chapter 2301 of the Texas Occupations Code and chapter 503 of the Texas Transportation Code, and a federal regulation relating to the sale of motor vehicles. These included premises violations, one instance of issuing three buyer's temporary tags for one vehicle, and one instance of issuing four dealer tags for a vehicle Respondent did not own.

The Enforcement Division referred the contested case matter to the State Office of Administrative Hearings (SOAH) on or about October 1, 2019. The Administrative Law Judge (ALJ) conducted the hearing on the merits on July 28, 2020. Staff recommended that Respondent be assessed an \$11,000 civil penalty and that Respondent's GDN license be revoked. The proposal for decision (PFD) was issued on September 21, 2020. The ALJ found that staff had proven all but one of its allegations, that the violations were minor and not a harm to the public, and recommended a \$9,500 civil penalty and no revocation of Respondent's GDN license. On September 30, 2020, Petitioner filed Exceptions and on November 9, 2020, the ALJ adopted Petitioner's Exceptions request for Findings of Fact, new Finding of Fact 11A and new Conclusion of Law 11A.

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

1. Proposal for Decision, September 21, 2020;
2. Petitioner's Exceptions, September 30, 2020; and
3. ALJ's adoption of Finding of Fact and Conclusions of Law, November 9, 2020.

FILED
608-20-0460
9/21/2020 2:47 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK



ACCEPTED
608-20-0460
9/21/2020 2:47 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

September 21, 2020

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

VIA EFILE TEXAS

**RE: Docket No. 608-20-0460.ENF; MVD Docket No. 17-0075684.ENF/
111e Texas Department of Motor Vehicles, Enforcement Division
v. Boss Exotics, I.L.C. D/B/A Boss Exotics**

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, a SOAR rule which may be found at www.soah.texas.gov.

Sincerely,

Mcitra Farhidi
Administrative Law Judge

MF/db
Enclosure
cc:

Heather Pierce Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 400 Jackson Ave., Austin, TX 78731 - **VIA EFILE TEXAS**
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL** (with 1 hearing CD; Certified Exhibits)
Taylor McGaffey, 2807 Allen Street, Unit 617, Dallas, TX 75204 - **VIA REGULAR MAIL**

SOAR DOCKET NO. 608-20-0460

TEXAS DEPARTMENT OF MOTOR VEHICLES, ENFORCEMENT DIVISION	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
	§	
	§	OF
	§	
BOSS EXOTICS, LLC, D/B/A BOSS EXOTICS,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles - Enforcement Division (Department) seeks to impose an \$11,000 civil penalty against Boss Exotics, LLC, cl/b/a Boss Exotics (Respondent) for **11** alleged violations of the Texas Transportation Code and Department rules. Staff also recommends that Respondent's general distinguishing number license be revoked. The Administrative Law Judge (ALJ) finds Staff proved some but not all of the alleged violations and recommends that the Department's board (Board) impose civil penalties of \$9,500 against Respondent but not revoke its license.

L JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Neither party disputed notice or jurisdiction. Those matters are discussed in the Findings of Fact and Conclusions of Law without further discussion here. On July 28, 2020, State Office of Administrative Hearings (SOAH) ALJ Meitra Farhadi convened the telephonic hearing on the merits. Staff was represented by Heather Pierce, Enforcement Division attorney. Respondent appeared through one of its owners, Taylor McGaffey. The record closed and the hearing concluded that day.

II. APPLICABLE LAW

A person may not engage in business as a motor vehicle dealer by regularly and actively buying, selling, or exchanging vehicles at an established and permanent location, without a general

SOAH DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGE2

distinguishing number issued by the Department.¹ The Department may revoke a general distinguishing number license if the license holder violates any law relating to the sale and distribution of motor vehicles, or violates chapter 2301 of the Texas Occupations Code or any rule adopted by the Board.² A license may not be revoked unless the license holder is afforded the opportunity for a hearing.³

A person who violates chapter 503 of the Texas Transportation Code, or any rule adopted under such chapter, is subject to a civil penalty of not less than \$50 and not more than \$1,000.⁴ Each act in violation of chapter 503 of the Texas Transportation Code and each day of a continuing violation is a separate violation.⁵ Further, if after a hearing the Board finds that a person has violated chapter 2301 of the Texas Occupations Code, a Board rule adopted under such chapter, or Section 503.038(a) of the Texas Transportation Code, the Board may impose a civil penalty not to exceed \$10,000 per violation. Each act of violation and each day of a continuing violation is a separate violation.⁶

In determining the amount of any civil penalty, the Board must consider the following factors:

- 1) The seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the harm or potential harm to the safety of the public;
- 2) The economic damage to the public caused by the violation;
- 3) The history of previous violations;
- 4) The amount necessary to deter a future violation;
- 5) Efforts to correct the violation; and

¹ Tex. Transp. Code §§ 503.001(4), .021.

² Tex. Occ. Code § 2301.651(a)(3)-(4).

³ Tex. Occ. Code § 230J.651(d).

⁴ Tex. Transp. Code § 503.095(a).

⁵ Tex. Transp. Code § 503.095(b).

⁶ Tex. Occ. Code § 2301.801(a).

SOAII DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGEJ

⁶⁾ Any other matter that justice may require.⁷

Staff has the burden of proving, by a preponderance of the evidence, that Respondent committed the alleged violations and the appropriate sanction for any such violations.⁸

III. ALLEGED VIOLATIONS, EVIDENCE, AND ARGUMENTS

Respondent currently holds a general distinguishing number license issued by the Department. ⁹ Based on an investigation performed by Department investigator James Greenwell, Staff determined that Respondent committed eleven separate violations of chapters 502, 503, and 504 of the Texas Transportation Code, Board rules adopted under chapter 2301 of the Texas Occupations Code and chapter 503 of the Texas Transportation Code, and a federal regulation relating to the sale of motor vehicles.

Staff offered Mr. Greenwell's testimony, along with sixteen exhibits that were admitted into evidence. Mr. Greenwell testified that he has been a Department investigator for 4.5 years and prior to that he was a police officer and a forensic investigator. Staff Exhibits 9-16 contain the documentation he obtained through the course of his investigation. Mr. McGaffey testified on behalf of Respondent and did not offer any exhibits.

A. Misuse of a Buyer's Temporary Tag

Staff alleges that Respondent issued three buyer's temporary tags to one consumer for the sale of one vehicle. Under the Transportation Code, a dealer shall issue one buyer's temporary tag to a person who buys a vehicle.¹⁰ Mr. Greenwell testified that a buyer's temporary tag is a temporary tag

⁷ Tex. Occ. Code § 2301.801(b).

⁹ 1 Tex. Admin. Code § 155.427.

¹ Staff Ex. 5.

¹⁰ Tex. Transp. Code § 503.063(a).

SOAH DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGE4

generated by the dealer and issued at the time of the sale. It allows the consumer to drive lawfully until the dealer transfers the title. He explained that although a dealer can physically print more than one buyer's temporary tag, it is not allowed. Mr. Greenwell testified that if a buyer's temporary tag expires before the consumer receives title to the vehicle, either the consumer or the dealer can purchase a 30-day permit from the state.

In this case, a complaint form was received by one consumer identifying three buyer's temporary tags he received from Respondent for one vehicle purchase.¹¹ Mr. Greenwell researched the complaint, and identified three separate buyer's temporary tags issued to the same buyer for a single vehicle purchase.¹²

Mr. McGaffey admitted that Respondent generated more than one buyer's temporary tag for a vehicle, but stated that he did not know that it was not allowed.

B. Failure to Make Records Available for Inspection

Staff alleges that, during normal business hours on August 3, 2016, Respondent failed to make records available for inspection by a Department representative, in violation of 43 Texas Administrative Code § 215.144(a).¹³ Mr. Greenwell testified that during normal business hours on August 3, 2016, he requested the records for the sale of a 2011 GMC Sierra sold to Jason Barrett, and that Respondent did not provide them.¹⁴

¹¹ Staff Ex. 9 at 6(1),

¹² Staff Ex. 9 at 68.

¹³ The rule was amended effective March 1, 2018, but the operative language is unchanged.

¹⁴ Staff Ex. 10 at 72.

SOAH DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGES

C. Misuse of a Dealer's Temporary Tag

Staff alleges that Respondent purchased a vehicle on January 1, 2017, but issued four dealer temporary tags prior to the purchase of the vehicle. Mr. Greenwell explained that dealer temporary tags allow a dealer to transport a vehicle for business purposes only, i.e. for transport from the dealership to auction or to a shop for repairs.¹⁵ He stated that a dealer is not allowed to print a dealer temporary tag for a vehicle the dealer does not own.¹⁶

Mr. Greenwell investigated and learned that Respondent issued temporary tags for a 2012 Audi on January 2, 2016, July 31, 2015, May 8, 2015, and February 8, 2015.¹⁷ Respondent did not own the vehicle until January 1, 2017.¹⁸ When asked if the date on the title could have been made by mistake, Mr. Greenhill testified that he does not believe it was a mistake and that that type of "mistake" is normally made in cases of fraud.

D. Failure to Keep a Complete Record of All Vehicles Purchased or Sold

Under Department rules, a dealer must maintain a complete record of all vehicle purchases and sales for at least 48 months and make the record available for inspection and copying by Department representatives during business hours.¹⁹ Department rules set forth the contents of the complete record that must be maintained by a dealer.²⁰

¹⁵ Tex. Transp. Code § 503.062.

¹⁶ 43 Tex. Admin. Code § 215.154(a).

¹⁷ Staff Ex. 11 at 85.

¹⁸ Staff Ex. 11 at 76-82.

¹⁹ 43 Tex. Admin. Code § 215.144(a).

²⁰ 43 Tex. Admin. Code § 215.144(e).

SOAH DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGE6

1. 2012 Audi

Staff alleges that on September 10, 2017, Respondent's sales file for the 2012 Audi was incomplete. Specifically, Mr. Greenwell testified that it was missing four records: the buyer's E-tag receipt, the Federal Trade Commission (FTC) buyer's guide, the auction sales receipt or other documentation to show how the vehicle entered Respondent's inventory, and the Texas motor vehicle tax exemption certificate-which is required when the consumer resides out of state. Mr. Greenwell explained that when a consumer buys a vehicle the dealer is required to print a buyer's tag and a buyer's E-tag receipt. The consumer is required to carry the E-tag receipt with them until the title has been transferred. He stressed that each of these documents was required by law to be kept in Respondent's sales file.

On August 21, 2017, Mr. Greenwell sent a request for records pertaining to the 2012 Audi to Respondent. In response, he received the following documents: the Bill of Sale for the 2012 Audi, showing that it was sold by Respondent to an out-of-state consumer on May 29, 2017, the certificate of title, dispatch sheet, and a wire transfer payment receipt from the consumer.²¹

2. 2009 GMC

Staff alleges that on September 12, 2017, Respondent's sales file for a 2009 GMC was incomplete. Specifically, Mr. Greenwell testified that it was missing two records: the FTC buyer's guide and the Texas motor vehicle tax exemption certificate. On September 8, 2017, Mr. Greenwell sent a request for records pertaining to the 2009 GMC to Respondent. In response, he received records, including the Bill of Sale showing that it was sold by Respondent to an out-of-state consumer on May 31, 2017; but the records he received did not include the FTC buyer's guide or the Texas motor vehicle tax exemption certificate.²²

²¹ Staff Ex. 12 at 95-99.

²² Staff Ex. 14.

SOAJI DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGE?

E. Offering Vehicle for Sale Not Displaying FTC Buyer's Guide & Failure to Remove Registration Insignia

Pursuant to federal regulation promulgated by the FTC, a used car dealer must display the applicable FTC Buyer's Guide on a vehicle before offering it for sale.²³ The guide must be prominently and conspicuously displayed and readable on both sides.²⁴ Additionally, when a vehicle is transferred or sold in Texas, the registration insignia issued for the vehicle must be removed."

Mr. Greenwell testified that he went to Respondent's licensed place of business on September 12, 2017, as part of his investigation. He stated that he observed a 2010 Audi offered for sale by Respondent that did not display the FTC Buyer's Guide, and that had a registration sticker on it. Mr. Greenwell identified several photographs in Staff's evidence that he took of the Audi showing a registration sticker on the vehicle and a "Boss Exotics" license plate.²⁶ He explained that he went to Respondent's business location during normal business hours and the 2010 Audi was parked out in front of the business, so he presumed the vehicle was being offered for sale. Mr. Greenwell stated that Respondent was prohibited from having the registration sticker on the vehicle when offering it for sale.

Mr. Greenhill stated that although he did not see the vehicle for sale on Respondent's website, and that he did not see a for sale sign in the car, because it bore a "Boss Exotics" license plate, and because James McGaffey, the brother of owner Taylor McGaffey, told him the cars outside were for sale, he believed the 2010 Audi was being offered for sale by Respondent.

" 16 Code of Federal Regulations (CFR) § 455.2(a).

" *id.*

" Tex. Transp. Code § 502.491(a), (c).

"Staff Ex. 13.

SOAJI DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGES

F. Posting and Location Allegations**1. Failure to Post a Copy of the Dealership's General Distinguishing Number (GDN)**

Staff alleges that on August 3, 2016, and on November 8, 2019, Respondent failed to have a copy of its GDN certificate posted in a place conspicuous to customers, as required by 43 Texas Administrative Code § 215.140(14). Mr. Greenwell testified that on August 3, 2016, when he visited Respondent's property he did not observe Respondent's GDN posted at the property. Mr. Greenwell stated that when he conducted a site visit on November 8, 2019, it appeared that Respondent no longer occupied the business location. He did not observe the dealership's GDN posted at the site.

2. Failure to Post Business Hours at Licensee Location

Staff alleges that on August 3, 2016, September 12, 2017, and November 8, 2019, Respondent failed to have business hours posted at the licensed location, in violation of 43 Texas Administrative Code § 215.140(1). Mr. Greenwell testified that he visited Respondent's business location ²⁷ on August 3, 2016, September 12, 2017, and November 8, 2019, and did not see any business hours posted. He explained that most business will have them posted on the door or a window visible to customers from the outside. Mr. Greenwell testified that there were multiple offices inside the business location, that he looked at interior and exterior offices, and did not see any business hours posted anywhere. He did not go in back to the warehouse portion of the location, because he did not believe it would be accessible to the public. Mr. Greenwell stated that he assumed the front entrance was the **111ain entrance**.

Mr. McGaffey testified that Respondent shared the location with other businesses, and that their main location was in the back.

²⁷ 2406 Walnut Ridge St., Dallas, Texas 75229. Staff Ex. 15 at 128.

3. Failure to Have a Business Sign

Staff alleges that on November 8, 2019, Respondent failed to have a business sign with letters at least 6 inches in height. Mr. Greenwell testified that his first two site visits on August 3, 2016, and on September 12, 2017, Respondent had a sign that met the regulatory requirements. However, at his site visit on November 8, 2019, Respondent was no longer at this site and no longer had any business signs up at the location.²⁸

4. Failure to Notify the Motor Vehicle Division of Change of Address

Staff alleges that Respondent failed to notify the Department of a change of physical location within ten days after such change. Specifically, Mr. Greenwell testified that Respondent was no longer occupying his 2406 Walnut Ridge business location. He observed that all signs had been removed and a maintenance man let him into the building, which he observed was empty.²⁹ Mr. Greenwell further testified that on July 6, 2020, the Department's records still indicated that Respondent's physical location was the 2406 Walnut Ridge location.³⁰

Mr. McGaffey admitted they moved out of the location. He testified that the building was damaged during a storm and because construction was taking a long time they moved. He explained that he believed he could not update his address because of other allegations against him by the state.

G. Starrs Recommended Sanctions

Mr. Greenwell testified that revocation of Respondent's GDN license is appropriate because of the number and nature of the violations by Respondent. He further testified that Respondent has

²⁸ Staff Ex. 16.

²⁹ Staff Ex. 16.

³⁰ Staff Ex. 5.

demonstrated a pattern of conduct indicating his failure to meet the premises requirements since November 8, 2019.

Staff also submitted an affidavit in support of the penalty recommendation by Brian Ge, the Managing Attorney of the Department's Enforcement Division.³ Mr. Ge recommends a civil penalty of \$11,000 and that Respondent's GDN be revoked. Mr. Ge states that he bases his recommendations on the standards set out in Texas Occupations Code § 2301.S01(b), and further states that the recommended sanction is in conformity with past decisions of the Board.

IV. ANALYSIS AND RECOMMENDATION

A. Misuse of a Buyer's Temporary Tag

The preponderance of the evidence does show that Respondent issued three buyer's temporary tags to one consumer for the sale of one vehicle. Whether Respondent knew that it was a violation of the statute and knew or not is irrelevant; as they contain no knowledge requirement. Therefore, the ALJ concludes that Respondent violated Texas Transportation Code § 503.063(a).

B. Failure to Make Records Available for Inspection

Staff provided evidence that during normal business hours on August 3, 2016, Mr. Greenhill requested the records for the sale of a 2011 GMC Sierra sold to Jason Ban-ett, and that Respondent did not provide them. The evidence was not disputed. Therefore, the ALJ finds that the preponderance of the evidence established that Respondent violated 43 Texas Administrative Code § 215.144(a).

³ Staff Ex. 7.

C. Misuse of a Dealer's Temporary Tag

The preponderance of the evidence shows that Respondent issued four dealer temporary tags for a 2012 Audi on January 2, 2016, July 31, 2015, May 8, 2015, and February 8, 2015, all prior to the purchase of the vehicle by Respondent on January 1, 2017. Therefore, the ALI concludes Respondent violated Transportation Code § 503.062 and 43 Texas Administrative Code § 215.154(a).

D. Failure to Keep a Complete Record of All Vehicles Purchased or Sold

The evidence was undisputed that on September 10, 2017, Respondent's sales file for the 2012 Audi was incomplete; and on September 12, 2017, Respondent's sales file for a 2009 GMC was incomplete. Therefore, the AU finds that the preponderance of the evidence established that Respondent violated 43 Texas Administrative Code § 215.144.

E. Offering Vehicle for Sale Not Displaying FTC Buyer's Guide and :Failure to Remove Registration Insignia

When a vehicle is transferred or sold in Texas, the registration insignia issued for the vehicle must be removed.³² In addition, federal regulations require the Buyer's Guide to "be displayed prominently and conspicuously in any location on a vehicle and in such a fashion that both sides are readily readable."³³ Staff alleges that Respondent offered a 2010 Audi for sale in its parking lot on September 12, 2017, without displaying the buyer's guide and without having removed the registration insignia. Staff's evidence established that a 2010 Audi was on Respondent's lot, had a "Boss Exotics" vanity license plate, was not displaying a buyer's guide, and still had a registration sticker on it. The evidence also established that the car was not listed for sale on Respondent's website and did not have a for sale sign in the window. While Mr. Greenhill testified that he also made his determination that the 2010 Audi was for sale because Taylor McGaffoy told him the cars out front were for sale; this testimony is hearsay, which the AU has weighed accordingly.

³² Tex. Transp. Code § 502.491(a), (c).

³³ 16 CFR § 455.2(a)(1).

The AU finds that Staff has failed to prove by a preponderance of the evidence that the 2010 Audi was being offered for sale by Respondent on September 12, 2017; therefore, Staff did not meet its burden of proof to show that Respondent violated 16 CFR § 455.2 or Transportation Code §§ 502.491 or 504.90I as alleged in its notice of hearing with respect to the 2010 Audi,

F. Posting and Location Allegations

Staff proved by a preponderance of the evidence that on August 3, 2016, and on November 8, 2019, Respondent failed to have a copy of its GDN certificate posted in a place conspicuous to customers; and that on August 3, 2016, September 12, 2017, and November 8, 2019, Respondent failed to have business hours posted at the licensed location. Staff's evidence showed that there were multiple offices inside the business location, that Mr. Greenwell looked at the front entrance, interior and exterior offices, and did not see any business hours posted anywhere. Although Mr. Greenwell did not go in back to the warehouse portion of the location, and Mr. McGaffey testified that Respondent's main location was in back; the regulations require that the dealer's license be displayed in a conspicuous place, and that the business hours must be posted at the main entrance of the dealer's office that is accessible to the public. Therefore, the AU concludes Respondent violated 43 Texas Administrative Code § 215.140(1) and (14).

The Transportation Code requires dealers to notify the department of a change to the dealer's address not later than the tenth day after the date the change occurs.³⁴ The undisputed evidence shows that at least from November 8, 2019, through July 6, 2020, Respondent failed to notify the Department of a change in address. Therefore, the AU concludes that Respondent violated Texas Transportation Code § 503.006.

³⁴ Tex. Transp. Codes 503.006.

SOAH DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGE 13

G. Appropriate Sanctions

Pursuant to Texas Occupations Code § 2301.651 (a)(3) and (4), the Board has the authority to revoke Respondent's license for any violation of any Board rule or any law related to the sale of motor vehicles. Staff based its recommended sanctions on Mr. Ge's affidavit, and Mr. Greenhill's testimony, citing the number and nature of the violations. However, the AU finds that Staff did not prove all of the alleged violations. The violations that were proven were relatively minor. Therefore, the evidence presented by Staff does not support revocation of Respondent's license, but it does support civil penalties totaling \$9,500 against Respondent as detailed below.

Staff proved that Respondent violated Texas Transportation Code § 503.063(a) by issuing more than one temporary buyer's tag for the sale of a vehicle. Under Texas Transportation Code § 503.095(a), for violations of rules adopted under chapter 503, a person is subject to a civil penalty of not less than \$50 or more than \$1,000. There is nothing in the statute or Department rules setting forth any factors that must be considered in determining the appropriate penalty for this violation. There was no evidence that the vehicle was unsafe to drive or that Respondent had committed any prior violations. Therefore, the ALJ recommends the Board impose a \$500 civil penalty against Respondent for this violation.

Staff proved that Respondent violated 43 Texas Administrative Code § 215.144(a) by failing to make records available for inspection by a Department representative during normal business hours on August 3, 2016. The Department's penalty matrix establishes a penalty range for this violation between \$500 and \$2,000.³⁵ There was no evidence of economic harm to the public or a history of prior violations. Therefore, the ALJ recommends the Board impose a \$1,000 civil penalty against Respondent for this violation.

Staff proved that Respondent violated Texas Transportation Code § 503.062 and 43 Texas Administrative Code § 215.154(a) by issuing four dealer's temporary tags for the 2012 Audi before

³⁵ Staff Ex. 4 at 40.

SOAH DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGE 14

purchasing it on January 1, 2017. Under the Department's penalty matrix, Tag and Title violations such as this warrant a penalty range from a warning letter up to a \$2,000 penalty.³⁶ Mr. Greenhill discussed the potential for fraudulent activity through this practice as potential harm to the public. However, no economic harm was alleged, and there was no evidence of previous violations. Therefore, the ALJ recommends the Board impose a \$1,500 civil penalty against Respondent for this violation.

Staff proved that Respondent violated 43 Texas Administrative Code § 215.144 by failing to keep a complete record of all vehicle sales, specifically for a 2012 Audi and a 2009 GMC. Under the Department's penalty matrix, failure to keep adequate records warrants a penalty range of \$500 to \$2,000.³⁷ There was no evidence of economic damage to the public caused by the violations; however, Staff proved more than one of the same violation. Considering the standards set out in Texas Occupations Code § 2301.801 (b), the ALJ recommends the Board impose a \$1,000 civil penalty against Respondent for each violation, for a total of \$2,000.

Staff proved that Respondent violated 43 Texas Administrative Code § 215.140(1) by failing to have business hours posted at the licensed location on August 3, 2016, September 12, 2017, and November 8, 2019. The Department's penalty matrix establishes a penalty range for this violation between \$500 and \$2,000. The violation is not very serious in that it did not pose potential harm to customers; however, it was an ongoing violation that Staff proved occurred on three separate occasions. Therefore, the ALJ recommends the Board impose a \$1,500 civil penalty against Respondent for this violation.

Staff proved that Respondent violated 43 Texas Administrative Code § 215.140(14) by failing to have a copy of its GDN certificate posted in a place conspicuous to customers on August 3, 2016, and on November 8, 2019. The Department's penalty matrix establishes a penalty range for this

³⁶ Staff Ex. 4 at 38.

³⁷ Staff Ex. 4 at 40.

" Staff Ex. 4 at 39.

violation between a warning letter and \$2,000.³⁹ The violation is not very serious in that it did not pose potential harm to customers; however, it was an ongoing violation that Staff proved occurred on two separate occasions. Therefore, the ALJ recommends the Board impose a \$1,000 civil penalty against Respondent for this violation.

Staff proved that Respondent violated Texas Transportation Code § 503.006 by failing to notify the Department of a change to the dealer's address not later than the tenth day after the date the change occurs. The Department's penalty matrix establishes a penalty range for this violation between a warning letter and \$2,000.⁴⁰ There was no evidence concerning the potential harm to the public for this violation; however, the evidence did show that Respondent vacated his business location altogether without notifying the Department for over seven months. Therefore, the ALJ recommends the Board impose a \$2,000 civil penalty against Respondent for this violation.

V. FINDINGS OF FACT

1. Boss Exotics, LLC, d/b/a Boss Exotics (Respondent) holds a general distinguishing number (GDN) license issued by the Texas Department of Motor Vehicles (Department). Taylor McGaffey is an owner of Respondent.
2. Respondent's physical address on file with the Department is 2406 Walnut Ridge St. Dallas, Texas 75229.
3. On or about February 26, 2016, Respondent sold a 2011 GMC Sierra to Jason Barrett.
4. Respondent issued three buyer temporary tags for the 2011 GMC Sierra to Jason Barrett.
5. During normal business hours on August 3, 2016, Respondent did not provide the records for the sale of the 2011 GMC Sierra to Jason Barrett when requested by a Department representative.
6. Respondent issued temporary tags for a 2012 Audi on January 2, 2016, July 31, 2015, May 8, 2015, and February 8, 2015; but did not purchase the 2012 Audi until January 1, 2017.
7. On September 10, 2017, Respondent's sales file for the 2012 Audi was incomplete.

³⁹ Staff Ex. 4 at 39.

⁴⁰ Staff Ex. 4 at 39.

8. On September 12, 2017, Respondent's sales file for a 2009 GMC was incomplete.
9. On August 3, 2016, and on November 8, 2019, Respondent failed to have a copy of its GDN certificate posted in a place conspicuous to customers.
10. On August 3, 2016, September 12, 2017, and November 8, 2019, Respondent failed to have business hours posted at the main entrance of the licensed location that is accessible to the public.
11. On November 8, 2019, Respondent failed to have any business signs up at the licensed location.
12. Respondent failed to notify the Department of a change of physical location within ten days after such change.
13. On July 6, 2020, Department staff (Staff) issued a Notice of Hearing and a First Amended Notice of Department Decision to Respondent, which 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 either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
14. On July 28, 2020, State Office of Administrative Hearings (SOAH) Administrative Law Judge Meitra Farhadi convened the telephonic hearing on the merits. Staff was represented by Heather Pierce, Enforcement Division attorney. Respondent appeared through one of its owners, Taylor McGaffey. The record closed and the hearing concluded that day.

VI. CONCLUSIONS OF LAW

- I. The Department has jurisdiction over independent motor vehicle dealers pursuant to Texas Occupations Code chapter 2301 and Texas Transportation Code chapter 503.
2. SOAH 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 chapter 2003.
3. Respondent received proper and timely notice of the hearing. Tex. Gov't Code §§ 2001.051-.052.

SOAH DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGE 17

4. Staff had the burden to prove by a preponderance of the evidence that Respondent committed the alleged violations and that the sanctions it recommended were appropriate. I Tex. Admin. Code § 155.427.
5. Staff failed to meet its burden to prove that Respondent offered a 2010 Audi for sale in its parking lot on September 12, 2017, without displaying the buyer's guide and without having removed the registration insignia.
6. Respondent violated Texas Transportation Code § 503.06(a) by issuing more than one temporary buyer's tag for the sale of a vehicle.
7. Respondent violated 43 Texas Administrative Code § 215.144(a) by failing to make records available for inspection by a Department representative during normal business hours on August 3, 2016.
8. Respondent violated Texas Transportation Code § 503.062 and 43 Texas Administrative Code § 215.154(a) by issuing four dealer's temporary tags for the 2012 Audi before purchasing it on January 1, 2017.
9. Respondent violated 43 Texas Administrative Code § 215.144 by failing to keep a complete record of all vehicle sales.
10. Respondent violated 43 Texas Administrative Code § 215.140(1) by failing to have business hours posted at the licensed location on August 3, 2016, September 12, 2017, and November 8, 2019.
11. Respondent violated 43 Texas Administrative Code § 215.140(14) by failing to have a copy of its GDN certificate posted in a place conspicuous to customers on August 3, 2016, and on November 8, 2019.
12. Respondent violated Texas Transportation Code § 503.006 by failing to notify the Department of a change to the dealer's address not later than the tenth day after the date the change occurs.
13. Pursuant to Texas Occupations Code § 2301.651(a)(3) and (4), the Board has the authority to revoke Respondent's license for any violation of any Board rule or any law related to the sale of motor vehicles.
14. A person who violates any Board rule adopted under chapter 503 of the Texas Transportation Code is subject to a civil penalty of not less than \$50 or more than \$1,000. Tex. Transp. Code § 503.095.
15. The Board should impose a \$500 civil penalty against Respondent for its violation of Texas Transportation Code § 503.063(a).


SOAH DOCKET NO. 608-20-0460

PROPOSAL FOR DECISION

PAGE 18

16. The Board should impose a \$1,000 civil penalty against Respondent for its violation of 43 Texas Administrative Code § 215.144(a) by failing to make records available for inspection.
17. The Board should impose a \$1,500 civil penalty against Respondent for its violation of Texas Transportation Code § 503.062 and 43 Texas Administrative Code § 215.154(a) by issuing four dealer's temporary tags for the 2012 Audi,
18. The Board should impose a \$2,000 civil penalty against Respondent for its violation of 43 Texas Administrative Code § 215.144 by failing to keep a complete record of all vehicle sales.
19. The Board should impose a \$1,500 civil penalty against Respondent for its violation of 43 Texas Administrative Code § 215.140(1).
20. The Board should impose a \$1,000 civil penalty against Respondent for its violation of 43 Texas Administrative Code § 215.140(14).
21. The Board should impose a \$2,000 civil penalty against Respondent for its violation of Texas Transportation Code § 503.006.
22. The Board should not revoke Respondent's GDN license.

SIGNED September 21, 2020.


MEITRA FARHADI
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

ACCEPTED
608-20-0460
9/30/2020 3:44 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

**MVD CAUSE NO, 17-0075684.ENF
SOAH DOCKET NO. 608-20-0460.ENF**

FILED
608-20-0460
9/30/2020 11:59 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

**IN THE MATTER OF THE LICENSE § BEFORE THE STATE OFFICE
OF BOSS EXOTICS, LLC, D/B/A BOSS §
EXOTICS § OF
§
§ ADMINJSTRATJVE HEARINGS**

**PETITIONER'S EXCEPTIONS TO THE PROPOSAL FOR DECISION AND REQUEST
TO CORRECT A CLERICAL ERROR**

Comes Now, Petitioner, the Texas Department of Motor Vehicles (TxDMV), and files its exceptions to the Proposal for Decision (PFD) issued by the Administrative Law Judge (ALJ) in this matter on September 21, 2020. Petitioner requests the addition of a Finding of Fact (FOF) and a Conclusion of Law (COL) based on the evidence and analysis of the ALJ and other COLs and FOFs already in the PFD, as shown below.

**I. REQUEST FOR AN ADDITION OF A FINDING OF FACT AND AN
ADDITION OF A CONCLUSION OF LAW**

Petitioner requests the ALJ to include the addition of the following FOF and the addition of the following COL:

Finding of Fact: Respondent vacated his physical location, 2406 Walnut Ridge St. Dallas, Texas 75529, and has not been at that location from November 8, 2019 through at least July 6, 2020, when the Investigator James Greenwell performed his last site visit.

Conclusion of Law: Respondent violated 43 Texas Administrative Code § 215.140 by failing to meet the premises requirements when he vacated his listed physical location, 2406 Walnut Ridge St. Dallas, Texas 75529, and not being at that location from November 8, 2019 through July 6, 2020, when the Investigator James Greenwell performed his last site visit.

Petitioner respectfully asks for these two additions because it was clear from the analysis and the PFD that Respondent had not been at his listed location, i.e. 2406 Walnut Ridge St. Dallas, Texas 75529 from November 8, 2019 through July 6, 2020. Further, Respondent admitted that he had not been at that location, there was testimony and exhibits presented by Staff that

Respondent was not at that location, and the ALJ used that analysis in the PFD, see below. The request for the FOF and COL are essential to the case against Respondent. Respondent failed to cure his premises defects and the language of 43 Texas Administrative Code § 215.140 indicates that a dealer must meet those premises (physical location) requirements.

- **Page 9** "3. Failure to Have a Business Sign ... However, at his site visit on November 8, 2019, Respondent was no longer at this site and no longer had any business signs up at the location."
- **Page 9** "Mr. McGaffey admitted they moved out of the location." The location which is being referred to is Respondent's physical location: 2406 Walnut Ridge St. Dallas, Texas 75529.
- **Pages 9 -10** "G. Staff's Recommended Sanctions ...[Mr. Greenwell] further testified that Respondent has demonstrated a pattern of conduct indicating his failure to meet the premises requirements since November 8, 2019."
- **Page 12** "F. Posting and Location Allegations ... The undisputed evidence shows that at least from November 8, 2019, through July 6, 2020, Respondent failed to notify the Department of a change in address. Therefore, the ALJ concludes that Respondent violated Texas Transportation Code § 503.006."
- **Page 12** "Staff proved that Respondent violated 43 Texas Administrative Code § 215.140(1) by failing to have business hours posted at the licensed location on August 3, 2016, September 12, 2017, and November 8, 2019....however, it was an ongoing violation that Staff proved occurred on three separate occasions."
- **Page 15** " ... however, the evidence did show that Respondent vacated his business location altogether without notifying the Department for over seven months."

II. CORRECTION OF A CLERICAL ERROR

Petitioner requests a correction of the last name of the witness in the hearing. James "Jim"

Greenwell testified at the SOAH hearing. The following pages: 5, 7, 10, 11, 13, and 14 are where the name should be corrected from: Greenhill to Greenwell.

- **Page 5:** "...Mr. Greenhill testified that he does not believe it was a mistake and that that type of "mistake" is normally made in cases of fraud."
- **Page 7:** "Mr. Greenhill stated that although he did not see the vehicle for sale on Respondent's website "
- **Page 10:** "Staff provided evidence that during normal business hours on August 3, 2016, Mr. Greenhill requested the records for the sale of a 2011 GMC Sierra sold to Jason BatTett, and that Respondent did not provide them."
- **Page 11:** "While Mr. Greenhill testified that he also made his determination that the 2010 Audi was for sale because Taylor McGaffey told him the cars out front were for sale; this

testimony is hearsay, which the ALJ has weighed accordingly."

- Page 13: "Staff based its recommended sanctions on Mr. Ge's affidavit, and Mr. Greenhill's testimony, citing the number and nature of the violations. However, the ALJ finds that Staff did not prove all of the alleged violations."
- Page 14: "Mr. Greenhill discussed the potential for fraudulent activity through this practice as potential harm to the public."

III. PRAYER

WHEREFORE PREMISES CONSIDERED, Petitioner prays that the ALJ consider these exceptions to revise the PFD to include the addition of the Finding of Fact and the addition of the Conclusion of Law, and to correct the witness's last name from Greenhill to Greenwell.

Respectfully submitted,

Heather R. E. Pierce

Heather R. E. Pierce
Attorney, Enforcement Division
Bar Card No. 24067969
4000 Jackson Ave
Austin, Texas 78731
Direct Number: (512) 465-4163
Fax: (512) 465-5650

CERTIFICATE OF SERVICE

I certify that on September 30, 2020, a true and correct copy of this document was served on the following individuals at the locations and the manner indicated below.

Electronic Filing

Docket Clerk
State Office of Administrative Hearings
300 West 15th #504
Austin, Texas 78701

VIA CMRRR AND VIA EMAIL: BOSS EXOTICS, LLC, d/b/a BOSS Exotics
2807 Allen St #617
Dallas, Texas 75204-1031
Email: ceo@bossexotics.com

VIA CMRRR: BOSS EXOTICS, LLC, d/b/a BOSS Exotics
2406 Walnut Ridge St
Dallas, Texas 75229-4528

Heather R. E. Pierce

Heather R. E. Pierce, Attorney Enforcement
Division



Texas Department of Motor Vehicles

ENFORCEMENT DIVISION
4000 Jackson Avenue -Austin, Texas 78731
Telephone (512) 465-4163- FAX (512) 465-5650

September 30, 2020

VIA ELECTRONIC FILING

Deputy Clerk
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025

**RE: IN THE MATTER OF THE LICENSE OF
BOSS EXOTICS, LLC, D/B/A BOSS EXOTICS
MVD CAUSE NO. 17-0075684.ENF
SOAH DOCKET NO. 608-20-0460.ENF**

Dear Clerk:

Please find enclosed Petitioner's Exceptions to the Proposal for Decision and the change of a minor clerical error. A copy of this response has been forwarded to Respondent in the following manner:

VIA CMRRR AND VIA EMAIL: BOSS EXOTICS, LLC, d/b/a BOSS Exotics

- 2807 Allen St #617 Dallas, Texas 75204-1031
- Email: ceo@bossexotics.com

VIA CMRRR: BOSS EXOTICS, LLC, d/b/a BOSS Exotics

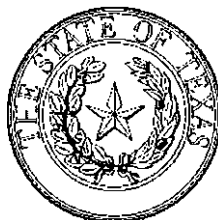
- 2406 Walnut Ridge St Dallas, Texas 75229-4528

Should you have any questions here is my direct contact information: Heather.Pierceri.itxdmv.gov
(512) 465-4163.

Sincerely,

Heather R. E. Pierce
Attorney, Enforcement Division
Bar Card No. 24067969
4000 Jackson Avenue
Austin, Texas 78731
Direct Phone Line: (512) 465-4163
Fax: (512) 465-565

ACCEPTED
608-20-0460
11/9/2020 8:23 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK



FILED
608-20-0460
11/9/2020 8:07 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

November 9, 2020

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

VIA EFILE TEXAS

RE: Docket No. 608-20-0460.ENF; MVD Docket No.17-0075684.ENF/
11eTexas Department of Motor Vehicles, Enforcement Division v. Boss Exotics,
LLC. d/b/a Boss Exotics

Dear **Mr.** Avitia:

The Proposal for Decision (PFD) in this case was issued on September 21, 2020. On September 30, 2020, Staff of the Texas Department of Motor Vehicles (Department) filed exceptions to the PFD. Boss Exotics, LLC d/b/a Boss Exotics (Boss Exotics) did not file exceptions or a response to Staff's exceptions.

Staff requests the addition of the following finding of fact (FOF) and conclusion of law (COL):

Finding of Fact: Respondent vacated his physical location, 2406 Walnut Ridge St, Dallas, Texas 75529, and has not been at that location from November 8, 2019 through at least July 6, 2020, when the Investigator James Greenwell performed his last site visit.

Conclusion of Law: Respondent violated 43 Texas Administrative Code § 215.140 by failing to meet the premises requirements when he vacated his listed physical location, 2406 Walnut Ridge St. Dallas, Texas 75529, and not being at that location from November 8, 2019 through July 6, 2020, when the Investigator James Greenwell performed his last site visit.

Because the evidence supports the requested FOF and COL, the AU agrees they should be added to the PFD as **FOF HA** and **COL IA**, respectively.

SOAH Docket 608-20-0460.ENF
MVD Docket No.17-0075684-ENF
Exceptions Letter by ALJ
November 9, 2020
Page 2 of 2

Staff also identifies several instances of typographical errors in the spelling of witness James Greenwell's last name in the PFD. The ALJ agrees that the misspelling of Mr. Greenwell's last name on the pages identified in Staff's exceptions (pages 5, 7, 10, 11, 13, and 14) should be changed to reflect the proper spelling of his last name.

With the modifications above noted above, the PFD is ready for consideration by the Department.

Sincerely,

A handwritten signature in black ink, appearing to read "f r l w" followed by a period, written in a cursive style.

Mcitra Farhadi
Administrative **Law** Judge

MF/le

cc:

Heather Pierce Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 400 Jackson Ave., Austin, TX 78731 - **VIA EFILE TEXAS**
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL** (with 1 hearing CD; Certified Exhibits)
Taylor McGaffey, 2807 Allen Street, Unit 617, Dallas, TX 75204 -**VIA E-FILE TEXAS**



Board Meeting Date: 8/5/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Tracey Beaver, General Counsel
Agenda Item: 7
Subject: Denial of Application and Appeal to SOAH under Occupations Code, § 2302.108 and 43 Texas Administrative Code § 221.111. MVD Docket Case No. 19-0003764.ENF, SOAH Docket No. 608-19-5377.ENF. *Texas Department of Motor Vehicles v. Peacedavies International, LLC*

PURPOSE AND EXECUTIVE SUMMARY

The State Office of Administrative Hearings (SOAH) issued a PFD for consideration by the Board of the Texas Department of Motor Vehicles (Board). The Board may now consider and approve a Final Order.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

In October 2017, Respondent filed an application for a new salvage dealer license listing herself as the sole owner. In May 2018, the MVD Licensing Committee denied the application based on her affiliation with a prior salvage dealer whose license had been revoked, her spouse. At time, department rule, 43 TAC § 221.111 (a)(5) required the department to deny new license applications submitted by members of the salvage dealer's immediate family when the salvage dealer's license has been revoked and the new business is at the same location.

MVD referred the denied application to the Enforcement Division, and Respondent was sent the Notice of Department Decision (NODD) recommending denial of the salvage dealer application in February 2019. The Enforcement Division referred the contested case matter to SOAH. The hearing on the merits was on December 2, 2020, and the record closed on the same date. The PFD was issued on February 1, 2021. No exceptions were filed. The ALJ found that Respondent was fit for licensure and recommended a license be granted.

This case was proceeded new fitness rules for salvage dealers effective October 31, 2020. These revised rules delete family affiliation references and focus on whether an unfit person has any control over a new business to be licensed. The ALJ's recommendation is also consistent with the current salvage dealer fitness rules.

The following document is attached to this Executive Summary for consideration by the Board:

1. Proposal for Decision, February 1, 2021.

FILED Board Meeting eBook
608-19-5377
2/1/2021 3:32 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

August 5, 2021

78

ACCEPTED
608-19-5377
2/1/2021 3:41 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

February 1, 2021

Daniel Avitia, Director
Motor Vehicle Division

VIA EFILE TEXAS

Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

RE: Docket No. 608-19-5377.ENF; MVD Docket No. 19-0003764/The Texas Department of Motor Vehicles v. Peacedavies International, LLC

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, a SOAR rule which may be found at www.soah.texas.gov.

Sincerely,



Vic or John Simonds
Administrative Law Judge

VJS/eh

cc: Troy J. Wilson, Attorney, Wilson & Associates PLLC, 8019 West Grand Parkway South, Suite 144, Richmond, Texas 77407- VIA EFILE TEXAS
Robert Rice, Attorney, Texas Department of Motor Vehicles, Motor Vehicle Division, 4000 Jackson Ave., Austin, Texas 78731 - VIA EFILE TEXAS
Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - VIA EFILE TEXAS and INTERAGENCY MAIL (1 hearing CD)

SOAH DOCKET NO. 608-19-5377.ENF
MVD NO. 19-0003764

TEXAS DEPARTMENT OF MOTOR	§	BEFORE THE STATE OFFICE
VEHICLES	§	
	§	
v.	§	OF
	§	
PEACEDAVIES INTERNATIONAL, LLC,	§	
Applicant	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles (Department) seeks to deny the salvage vehicle dealer license application of Peacedavies International, LLC (Applicant LLC), a company owned by Peace Uleanya (Mrs. Uleanya). Staff contends the application should be denied because Mrs. Uleanya's husband was the owner of Friends Auto Truck and Industrial Equipment, LLC (Friends LLC), which had its salvage vehicle dealer license revoked. Additionally, Applicant LLC seeks to operate at a location that Friends LLC used previously. In this Proposal for Decision, the Administrative Law Judge (ALJ) finds that Staff failed to establish that Applicant LLC did not meet the license qualifications; therefore, the application should be approved.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

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

The hearing was held December 2, 2020, before ALJ Rudy Calderon in Austin, Texas. Staff was represented by Robert Rice, Enforcement Division attorney. Applicant LLC appeared and was represented by attorney Troy Wilson. The record closed that same day. The case was transferred to ALJ Victor John Simonds for docket control purposes.

II. DISCUSSION

A. Applicable Law

Staff's legal argument is that Applicant LLC's application should be denied based on a mandatory provision within the Department's administrative rules. The relevant rule states:

- (a) The department shall deny issuance of a salvage vehicle dealer license or a salvage agent license, if:
 - (5) the applicant is an immediate family member, such as a spouse, child, parent, grandparent, niece, nephew, uncle, or aunt, of a previously licensed salvage vehicle dealer whose license has been revoked, and the business location is the same as the location of the revoked salvage vehicle dealer.¹

This rule was amended as of October 2020, after the application at issue in this case had been denied. Staff argues that the amended rule also supports its decision to deny the license application. The amended rule states:

- (a) The board or department may deny an application for a license or renewal of a license under Occupations Code Chapter 53 or Chapter 2302 of this title (relating to Criminal Offense Guidelines) if:
 - (5) the applicant or license holder has an ownership, organizational, managerial, or other business arrangement that would allow a person the power to direct, management, policies, or activities, of the applicant or license holder, whether directly or indirectly, who is unfit, ineligible for license, or has been subject to disciplinary action, including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, or similar assessment for a current or previous

¹ 43 Tex. Admin. Code § 221.111(a)(5), as effective December 9, 2015.

license, permit, or other authorization issued by any local, state, or federal regulatory authority.²

The Department shall issue a license to an applicant who meets the license qualifications adopted under Texas Occupations Code chapter 2302 and pays the required fees.³ Therefore, in this contested case proceeding, Staff must establish by a preponderance of the evidence that Applicant LLC's license application does not meet the statutory qualifications.⁴

B. Evidence

Staff presented the testimony of Lucie Prieto, a Research Analyst employed by the Department. Staff offered three exhibits: Applicant LLC's salvage vehicle dealer license application, Motor Vehicle Division Final Order in MVD Case No. 18-0182346.ENF, and correspondence from Applicant LLC to the Department. Staff's exhibits were admitted without objection. Applicant LLC presented no witnesses or exhibits.

1. Documentary Evidence

On October 25, 2017, Applicant LLC submitted an application for a salvage vehicle dealer license. Applicant LLC wanted to operate a vehicle salvage business. The Department reviewed the application and, on November 27, 2017, issued correspondence denying the application. The denial letter stated:

You responded "No" in the Ownership and Management section of the application which asked: 'Has the applicant or any partner, any LLC member or manager, or any director, officer, owner (except for stockholders of publicly-traded companies)

² 43 Tex. Admin. Code § 221.111(a)(5), as effective October 1, 2020.

³ Tex. Occ. Code § 2302.106(a).

⁴ J Tex. Admin. Code § 155.427.

or any relative of the applicant ever applied for a license at the same proposed location that is the subject of this application.'⁵

On December 14, 2017, Applicant LLC wrote to respond and pointed out that the referenced question was not part of the application that was submitted. In fact, Applicant LLC stated that the application responses were truthful, accurate, and complete. With the responsive correspondence, Mrs. Uleanya (Applicant LLC's owner) submitted affidavit testimony stating that her husband, Okezie Uleanya, was the owner/operator of Friends LLC, then licensed at the same location Applicant LLC intended to use. Ms. Uleanya's affidavit states that her husband will have nothing to do with Applicant LLC's business; he is not an owner, manager, or employee.⁶

2. Testimony

The sole witness to testify at the hearing was Ms. Prieto, a Research Analyst for the Department. She reviewed the application at issue and found it to be complete and, to the best of her knowledge, truthful. She testified that she conducted background checks on both Mr. and Mrs. Uleanya as a part of her investigation into Applicant LLC's license application. Ms. Prieto did not find any criminal history related to Mrs. Uleanya. Nor did she find any negative Department enforcement history related to Applicant LLC's owner. However, she determined that Friends LLC had its salvage vehicle dealer license revoked in February 2018 because a Texas court entered an order of deferred adjudication in a case against Mr. Uleanya. The criminal case involved the theft of over \$200,000 and the court ordered Mr. Uleanya to pay restitution and be placed under community supervision for 10 years.⁷

Ms. Prieto testified that Applicant LLC's application was referred to a committee for review, and they determined (in May 2018) that the application should be denied, based on the above-referenced criminal court order regarding Mr. Uleanya. She explained that, based on Texas

⁵ Staff Ex. 3.

⁶ Staff Ex. 3.

⁷ Staff Ex. 2.

community property laws, Mr. Uleanya would be, effectively, a 50% owner of Applicant LLC and would have direct access to the company. Ms. Prieto added that, if there were a divorce, the property interests would be divided.

C. ALJ's Analysis

A limited liability company is a separate legal entity from its members.⁸ A membership interest may be community property under applicable law; however, a member's right to participate in the management and conduct of the business of a limited liability company is not community property.⁹ Thus, even in the event of a divorce, the assignment of a member's interest does not entitle the assignee to participate in the management affairs of the company, to become a member of the company, or to exercise any rights of a member of the company.¹⁰

Staff denied Applicant LLC's license request based on an administrative rule that states the Department shall deny the license if "the applicant is an immediate family member . . . of a previously licensed dealer whose license has been revoked" and the business locations are the same.¹¹ The applicant in this case is Applicant LLC (not Mrs. Uleanya) and the license that was revoked belonged to Friends LLC (not Mr. Uleanya). Those entities are unique and separate from the individuals. While business owners and members may have family relationships, business entities do not. Thus, the administrative rule that Staff relies on does not apply to facts such as those that are presented by the instant case. Therefore, the Department erred in 2018 when it denied Applicant LLC's license request.

Staff also argues that 43 Texas Administrative Code § 221.111(a)(S) as amended supports denial of the application. The ALJ disagrees. First, the license application at issue was denied

⁸ *Barrera v. Cherer*, No.04-13-00612-CV, 2014 WL 1713522, at *2 (Tex. App.-San Antonio Apr. 30, 2014, no. pet.).

⁹ Tex. Bus. Org. Code § 101.106(a-1), (a-2).

¹⁰ Tex. Bus. Org. Code § 101.08(b).

¹¹ See 43 Tex. Admin. Code § 221.111(a)(5), as effective December 9, 2015.

based on the rule as effective in 2017, when the application was filed. Second, based on the nature of the membership interest in limited liability companies under Texas law, the amended rule does not support Staff's argument.

The amended rule permits the Department to deny an application if a person who has been subject to disciplinary action (i.e., Mr. Uleanya) would have authority to direct the management, policies, or activities of the applicant or license holder (i.e., Applicant LLC). That is not the case here. The cited statutes from the Texas Business and Organizations Code are clear and unambiguous. Mr. and Mrs. Uleanya may have community property rights in the respective companies but that community property interest does not, in and of itself, establish that either has any right to participate in company affairs of a limited liability company. Mrs. Uleanya is the sole owner and member of Applicant LLC, and her affidavit testimony is uncontroverted. There is no evidence in the record to even support an inference that Mr. Uleanya has the power to direct Applicant LLC's affairs as required by the amended administrative rule Staff cites.¹²

Staff failed to establish that Applicant LLC did not meet the statutory qualifications for a salvage vehicle dealer license. Therefore, the license should be granted.

III. FINDINGS OF FACT

1. Peace Uleanya is the sole owner of Peacedavies International, LLC (Applicant LLC).
2. On October 25, 2017, Applicant LLC submitted an application to the Texas Department of Motor Vehicles (Department) for a Salvage Vehicle Dealer License.
3. Staff of the Department reviewed the application and, on November 27, 2017, issued correspondence denying the application, incorrectly alleging the application form had not been properly completed.
4. On February 28, 2018, the Department issued a Final Order that revoked the salvage vehicle dealer license held by Friends Auto Truck and Industrial Equipment, LLC (Friends LLC), a company that was owned by Okezie Uleanya. Mr. Uleanya is Mrs. Uleanya's spouse.

¹² 43 Tex. Admin. Code § 221.111(a)(5), as effective October 1, 2020.

5. Friends LLC had its salvage vehicle dealer license revoked because a Texas court entered an order of deferred adjudication in a case against Mr. Uleanya. The criminal case involved the theft of over \$200,000 and the court ordered Mr. Uleanya to pay restitution and be placed under community supervision for 10 years.
6. Applicant LLC wants to operate its business at the same location that was used by Friends LLC.
7. In May 2018, Staff at the Department informed Applicant LLC that its application for a salvage vehicle dealer license was being denied based on the revocation of the Friends LLC license.
8. Applicant LLC requested a contested case hearing.
9. On June 18, 2019, Staff mailed a notice of hearing to Mrs. Uleanya by U.S. mail, certified mail, and email.
10. The notice of hearing stated the date, time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain, statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
11. The hearing was held and the contested case record closed on December 2, 2020.

JV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over salvage vehicle dealers pursuant to Texas Occupations Code ch. 2302.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under Texas Government Code ch. 2003.
3. Applicant LLC received proper and timely notice of hearing. Tex. Gov't Code §§ 2001.051-.052.
4. A limited liability company is a separate legal entity from its members. *Barrera v. Cherer*, No.04-13-00612-CV, 2014 WL 1713522, at *2 (Tex. App.-San Antonio Apr. 30, 2014, no. pet.).

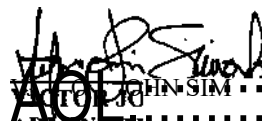
SOAH DOCKET NO. 608-19-5377.ENF
MVD CAUSE NO. 19-0003764

PROPOSAL FOR DECISION

PAGES

5. A membership interest may be community property under applicable law; however, a member's right to participate in the management and conduct of the business of a limited liability company is not community property. Tex. Bus. Org. Code § IO1.106(a-1), (a-2).
6. An assignment of a member's interest in a limited liability company does not entitle the assignee to participate in the management an affairs of the company, to become a member of the company or exercise any rights of a member of the company. Tex. Bus. Org. Code § 101.10S(b).
7. The Department shall issue a license to an applicant who meets the license qualifications adopted under [Texas Occupations Code chapter 23] and pays the required fees. Tex. Occ. Code § 2302.106(a).
8. The department shall deny issuance of a salvage vehicle dealer license or a salvage agent license, if the applicant is an immediate family member, such as a spouse, child, parent, grandparent, niece, nephew, uncle, or aunt, of a previously licensed salvage vehicle dealer whose license has been revoked, and the business location is the same as the location of the revoked salvage vehicle dealer. 43 Tex. Admin. Code § 221. 11 l(a)(5), as effective December 9, 2015.
9. Staff failed to establish by a preponderance of the evidence that Applicant LLC does not meet the license qualifications for a salvage vehicle dealer license. 1 Tex. Admin. Code § 155.427.
10. Applicant LLC's application for a salvage vehicle dealer license should be approved.

SIGNED February 1, 2021.


JOHN SIMONS
ADMINISTRATIVE JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

To: Texas Department of Motor Vehicles Board
From: Roland Luna, Vehicle Titles & Registration Division Director
Agenda Item: 8
Subject: **Chapter 217, Vehicle Titles and Registration - (ACTION ITEM)**
Amendments, §217.41 (Relating to Senate Bill (SB) 792, Relating to specialty license plates and parking placards for vehicles of certain disabled veterans)

RECOMMENDATION

Approval to publish the proposed amended section in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed amended section is to implement SB 792, regular session, to include disabled veterans in the process for issuance of disabled person license plates. Under SB 792, effective January 1, 2022, access to disabled parking spaces will be limited to persons, including disabled veterans, who are eligible for a disabled person license plate bearing the International Symbol of Access under Transportation Code §504.201. SB 792 requires the department to adopt rules by December 1, 2021, to issue license plates under Transportation Code §504.202(b-1). The proposal amends §217.41 to include disabled veterans in the existing disabled person application process.

FINANCIAL IMPACT

There will be no revenue impact, but the department will incur a one-time technology cost of \$8,000 in the first year to implement programming for the department's automated systems. Therefore, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal for each year of the first five years the proposed amendments will be in effect.

BACKGROUND AND DISCUSSION

Disabled persons with qualifying mobility issues or who are legally blind, and persons that transport those persons, can obtain disabled person license plates bearing the International Symbol of Access under Transportation Code §504.201. Disabled veterans, and persons that transport them, can obtain disabled veteran license plates under Transportation Code §504.202 based on a service-related disability, which might not be related to mobility. Disabled persons and disabled veterans can also obtain the blue and white disabled parking placard. Both types of license plates and the parking placard currently allow disabled person parking when transporting the disabled person or disabled veteran.

Effective January 1, 2022, SB 792 restricts access to disabled parking spaces to vehicles bearing a license plate with the International Symbol of Access or a disabled parking placard. SB 792 amends Transportation Code §504.202(b-1) to allow disabled veterans who meet the disabled persons requirement to obtain the plates. Disabled veterans meeting the standard, and their transporters, must obtain new license plates to continue to qualify for disabled parking after January 1, 2022.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 - Vehicle Titles and Registration

1 International Symbol of Access or a disabled parking placard may lawfully park in disabled parking
2 spaces under Transportation Code §§681.008, 681.009. and 681.011.

3 The statutory requirements for a disabled person under Transportation Code §504.201
4 differ from the requirements to qualify as a disabled veteran under Transportation Code §504.202.
5 As such, it is possible that not all persons who qualify for a disabled veteran license plate will
6 meet the requirement in Transportation Code §504.202(b-1) and be able to obtain license plates
7 bearing the International Symbol of Access or disabled parking placards.

8 Section 217.41(b)(2)(A) is also amended to establish satisfactory proof of eligibility for an
9 organization that under Transportation Code §504.202(c) transports disabled veterans who would
10 qualify for license plates issued under Transportation Code §504.202(b-1), as required in
11 Transportation Code §504.202(b-2). As amended, §217.41(b)(2)(A) includes the certification
12 requirements in Transportation Code §504.202(d) and adds a requirement for the certifying
13 authority, the veteran's county service officer of the county in which a vehicle described by
14 Transportation Code §504.202(c) is registered or the Department of Veterans Affairs certify that
15 the vehicle regularly transports veterans that would qualify for license plates under Transportation
16 Code §504.202(b-1). The department considers that Transportation Code §504.202(b-2) requires
17 transportation on a regular, but not constant basis.

18 Section 217.41(b)(2)(B) and (C) are amended to recognize that a disabled veteran may
19 qualify for certain military specialty license plates under §217.43. Also, the term "Disabled Person
20 insignia" is restated and "the International Symbol of Access" for consistent usage in the section.

21 Section 217.41(b)(3)(A) is amended to inform the reader of the Transportation Code
22 sections that establish requirements for the issuance of disabled parking placards. Section
23 217.41(b)(3)(B) is amended to inform the reader of department rules that have provisions related
24 to the renewal of regular, military, and specialty license plates.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 - Vehicle Titles and Registration

1 The department also proposes nonsubstantive changes for department style, including
2 adding lead statements in §217.41(b)(2)(B) and (C); changing the term “Disabled Person” to
3 “disabled person” throughout §217.41; and adding “tax assessor-collector” to references to
4 “county” in §217.41(d)(1)(B) and (e)(1)(B) for consistency with other references in the
5 subsections. Finally, the department proposes as a nonsubstantive change that all references in
6 the section to the parking placard be styled “disabled parking placard,” for consistency with the
7 terminology in Transportation Code §504.201 and §504.202, and Chapter 681.

8 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Sergio Rey, Assistant
9 Chief Financial Officer, has determined that for each year of the first five years the proposed new
10 section will be in effect, there will be no revenue impact; only a one-time technology cost of \$8,000
11 in the first year to implement programming for the department's automated systems. Therefore,
12 for each year of the first five years the proposed amendments will be in effect, there will be no
13 fiscal impact to state or local governments as a result of the enforcement or administration of the
14 proposal.

15 Roland D. Luna, Sr., Director of the Vehicle Titles and Registration Division, has
16 determined that there will be no measurable effect on local employment or the local economy as
17 a result of the proposal.

18 **PUBLIC BENEFIT AND COST NOTE.** Mr. Luna has also determined that, for each year of the
19 first five years the proposed new section is in effect, the public benefits include establishing rules
20 to implement SB 792, which limits access to disabled parking to those persons, including disabled
21 veterans, with mobility issues and qualifying under Transportation Code §504.201 to receive
22 license plates with the International Symbol of Access or disabled parking placards.

23 Mr. Luna anticipates that there will be no additional costs on a regulated person to comply
24 with these rules because the rules do not establish any additional requirements on a regulated
25 person, except for setting the requirement for satisfactory proof of eligibility for an organization

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 - Vehicle Titles and Registration

1 that transports disabled veterans who would qualify for license plates issued as required under
2 Transportation Code §504.202(b-2). In setting the requirement for satisfactory proof of eligibility,
3 the department has referred to persons already authorized to provide a certification under
4 Transportation Code §504.202(d) and requires only information that should be within the existing
5 knowledge of the organization making the request to the certifying authority. The department does
6 not regulate the means that a county service officer or the Department of Veterans Affairs would
7 make the determination that an organization qualifies under Transportation Code §504.202(b-2),
8 or existing Transportation Code §504.202(c). Cost to individuals and organizations desiring to
9 obtain replacement license plates are not a result of the proposed rules but result from SB 792.

10 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required
11 by Government Code, §2006.002, the department has determined that the proposed amended
12 section will not have an adverse economic effect on small businesses, micro-businesses, or rural
13 communities because the proposal amends §217.41 to comply with statute and imposes no
14 requirements not specified in statute other than the means for an organization to provide
15 satisfactory proof of eligibility, which the department is required to create under Transportation
16 Code §504.202(b-2). That means of proof relies on the statutory certification requirement in
17 Transportation Code §504.202(d) with an additional statement certifying that the organization
18 regularly transports disabled veterans who would qualify for license plate issued under
19 Transportation Code §504.202(b-1). The department does not regulate the means that a county
20 service officer or the Department of Veterans Affairs would determine that an organization
21 qualifies under Transportation Code §504.202(b-1), or existing Transportation Code §504.202(c).
22 The department has determined that the proposed amended section will not have a financial
23 effect, on any small businesses, micro-businesses, or rural communities. Therefore, the
24 department is not required to prepare a regulatory flexibility analysis under Government Code
25 §2006.002.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 - Vehicle Titles and Registration

1 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property
2 interests are affected by this proposal and that this proposal does not restrict or limit an owner's
3 right to property that would otherwise exist in the absence of government action and, therefore,
4 does not constitute a taking or require a takings impact assessment under Government Code,
5 §2007.043.

6 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each
7 year of the first five years the proposed new section is in effect, the proposed rule:

8 will not create or eliminate a government program;

9 will not require the creation of new employee positions or the elimination of existing
10 employee positions;

11 will not require an increase or decrease in future legislative appropriations to the
12 department;

13 will not require an increase or decrease in fees paid to the department;

14 will not create new regulation;

15 will expand existing regulations to implement Transportation Code §504.202(b-1) and
16 (b-2) and other amended sections as added by SB 792;

17 will not repeal existing regulations;

18 will not increase or decrease the number of individuals subject to the rule's applicability;

19 and

20 will not positively or adversely affect the Texas economy.

21 **REQUEST FOR PUBLIC COMMENT.**

22 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on MM,
23 DD, YYYY. A request for a public hearing must be sent separately from your written comments.

24 Send written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of
25 General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 - Vehicle Titles and Registration

1 78731. If a hearing is held, the department will consider written comments and public testimony
2 presented at the hearing.

3 **STATUTORY AUTHORITY.** The department proposes amendments to §217.41 under
4 Transportation Code §§504.202, 504.0011, and 1002.001.

5 Transportation Code §504.202(b-2) requires the department to adopt rules prescribing
6 satisfactory proof of eligibility for an organization that registers a motor vehicle under
7 Transportation Code §504.202(c) to receive license plates under Transportation Code
8 §504.202(b-1) if the vehicle regularly transports veterans who are eligible to receive license
9 plates under Subsection (b-1).

10 Transportation Code §504.0011 authorizes the board to adopt rules to implement and
11 administer Transportation Code Chapter 504.

12 Transportation Code §1002.001, authorizes the board to adopt rules that are necessary
13 and appropriate to implement the powers and the duties of the department.

14 **CROSS REFERENCE TO STATUTE.** Transportation Code §§502.410, 504.202, 681.004,
15 681.008, 681.009, and 681.011.

16 **TEXT.**

17 SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

18 43 TAC §217.41

19 **§217.41 Disabled Person License Plates and Disabled Parking ~~[Identification]~~ Placards**

20 (a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with
21 the responsibility for issuing specially designed license plates and disabled parking
22 ~~[identification]~~ placards for disabled persons. For the department to perform these duties
23 efficiently and effectively, this section prescribes the policies and procedures for the application,
24 issuance, and renewal of disabled person ~~[Disabled Person]~~ license plates and disabled parking
25 placards.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 - Vehicle Titles and Registration

1 (b) Issuance.

2 (1) For purposes of this section, “disabled person” means a person eligible for
3 issuance of a license plate bearing the International Symbol of Access under Transportation
4 Code §504.201, including a qualifying disabled veteran under §504.202(b-1).

5 (2) [(4)] Disabled person [Person] license plates.

6 (A) Eligibility. In accordance with Transportation Code [,] §504.201 and
7 §504.202(b-1) and (b-2), the department will issue specially designed license plates displaying
8 the International Symbol of Access to permanently disabled persons or their transporters
9 instead of regular license plates. As satisfactory proof of eligibility, an organization that
10 transports disabled veterans who would qualify for license plates issued under Transportation
11 Code §504.202(b-1) must provide a written statement from the veteran’s county service officer
12 of the county in which a vehicle described by Transportation Code §504.202(c) is registered or
13 by the Department of Veterans Affairs that:

14 (i) the vehicle is used exclusively to transport veterans of the
15 United States armed forces who have suffered, as a result of military service, a service-
16 connected disability;

17 (ii) the vehicle regularly transports veterans who are eligible to
18 receive license plates under Subsection (b-1); and

19 (iii) the veterans are not charged for the transportation.

20 (B) Specialty license plates. The department will issue disabled person
21 [Disabled Person insignia on these] specialty license plates displaying the International Symbol
22 of Access that can accommodate the identifying insignia and that are issued in accordance with
23 §217.43 or §217.45 of this title [(relating to Specialty License Plates, Symbols, Tabs, and Other
24 Devices)].

25 (C) License plate number. Disabled person [Person] license plates will

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 - Vehicle Titles and Registration

1 bear a license plate number assigned by the department or will bear a personalized license
2 plate number issued in accordance with §217.43 or §217.45.

3 (3) [(2)] Windshield disabled parking [identification] placards.

4 (A) Issuance. The department will issue removable windshield disabled
5 parking [identification] placards to temporarily or permanently disabled persons and the
6 transporters of permanently disabled persons, as provided under Transportation Code
7 §§504.201, 504.202, and 681.004.

8 (B) Display. A person who has been issued a windshield disabled parking
9 [identification] placard shall hang the placard from a vehicle's rearview mirror when the vehicle
10 is parked in a disabled person parking space or shall display the placard on the center portion of
11 the dashboard if the vehicle does not have a rearview mirror.

12 (c) Renewal of disabled person [~~Disabled Person~~] license plates. Disabled person
13 [~~Person~~] license plates are valid for a period of 12 months from the date of issuance and are
14 renewable as specified in §§217.28, 217.43, and 217.45 [~~§217.28~~] of this title [~~(relating to~~
15 ~~Vehicle Registration Renewal)~~].

16 (d) Replacement.

17 (1) License plates. If a disabled person [~~Disabled Person~~] metal license plate is
18 lost, stolen, or mutilated, the owner may obtain a replacement metal license plate by applying
19 with a county tax assessor-collector.

20 (A) Accompanying documentation. To replace disabled person
21 [~~permanently Disabled Person~~] metal license plates, the owner must present the current year's
22 registration receipt and personal identification acceptable to the county tax assessor-collector.

23 (B) Absence of accompanying documentation. If the current year's
24 registration receipt is not available and the county tax assessor-collector cannot verify that the
25 disabled person [~~Disabled Person~~] metal license plates were issued to the owner, the owner

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 - Vehicle Titles and Registration

1 must reapply in accordance with this section.

2 (2) Disabled parking [~~Person identification~~] placards. If a disabled parking
3 [~~Disabled Person identification~~] placard becomes lost, stolen, or mutilated, the owner may
4 obtain a new disabled parking [~~identification~~] placard in accordance with this section.

5 (e) Transfer of disabled person [~~Disabled Person~~] license plates and disabled parking
6 [~~identification~~] placards.

7 (1) License plates.

8 (A) Transfer between persons. Disabled person [~~Person~~] license plates
9 may not be transferred between persons. An owner who sells or trades a vehicle to which
10 disabled person [~~Disabled Person~~] license plates have been issued shall remove the disabled
11 person [~~Disabled Person~~] license plates from the vehicle. The owner shall return the license
12 plates to the department and shall obtain appropriate replacement license plates to place on the
13 vehicle prior to any transfer of ownership.

14 (B) Transfer between vehicles. Disabled person [~~Person~~] license plates
15 may be transferred between vehicles if the county tax assessor-collector or the department can
16 verify the plate ownership and the owner of the vehicle is a [~~the~~] disabled person or the vehicle
17 is used to transport a [~~the~~] disabled person.

18 (i) Plate ownership verification may include:

19 (I) a Registration and Title System (RTS) inquiry;

20 (II) a copy of the department application [~~Application~~] for
21 disabled person [~~Disabled Person~~] license plates; or

22 (III) the owner's current registration receipt.

23 (ii) An owner who sells or trades a vehicle with disabled person
24 [~~Disabled Person~~] license plates must remove the plates from the vehicle.

25 (2) Disabled parking [~~Identification~~] placards.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 - Vehicle Titles and Registration

1 (A) Transfer between vehicles. Disabled parking [~~Person identification~~]
2 placards may be displayed in any vehicle driven by the disabled person; or in which the disabled
3 person is a passenger.

4 (B) Transfer between persons. Disabled parking [~~Person identification~~]
5 placards may not be transferred between persons.

6 (f) Seizure and revocation of disabled parking placard.

7 (1) If a law enforcement officer seizes and destroys a disabled parking placard
8 under Transportation Code [;] §681.012, the officer shall notify the department by email.

9 (2) The person to whom the seized disabled parking placard was issued may
10 apply for a new disabled parking placard by submitting an application to the county tax
11 assessor-collector of the county in which the person with the disability resides or in which the
12 applicant is seeking medical treatment.

13 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it
14 to be within the state agency's legal authority to adopt.

15 Issued at Austin, Texas, on Month Day, YYYY.

16
17 _____
18 Tracey Beaver, General Counsel

To: Texas Department of Motor Vehicles Board
From: Roland Luna, Vehicle Titles & Registration Division Director
Agenda Item: 9
Subject: Special Plate Designs

RECOMMENDATION

The Vehicle Titles and Registration Division (VTR) seeks board approval or denial of four plate designs submitted for your consideration. Each plate design is from the marketing vendor, My Plates.

The University of Texas at San Antonio plate and the Love Heart Black plate are new plate designs and have never been sold before. The Louisiana State University plate is a crossover/redesign plate and has never been sold before. The Mississippi State University is a redesign of an existing My Plates (vendor) plate.

PURPOSE AND EXECUTIVE SUMMARY

Statutory authority for the board to approve vendor specialty license plates and invite the public's comment on proposed vendor plate designs are in Texas Transportation Code Section 504.851 (g) and (g-1) (1). Statutory authority for a sponsor of a specialty license plate under Texas Transportation Code Chapter 504, Subchapter J, to contract with the private vendor authorized under Texas Transportation Code Section 504.851 for the marketing and sale of the specialty license plate is in Texas Transportation Code Section 504.6011. Statutory authority for the board to approve non-profit organization specialty license plates and invite the public's comment on proposed plate designs are in Texas Transportation Code Section 504.801. The board's approval criteria are clarified in Administrative Codes §217.45 *Specialty License Plates, Symbols, Tabs, and Other Devices* and §217.52 *Marketing of Specialty License Plates through a Private Vendor*.

The vendor contract (Statement of Work paragraph #2, Marketing Services) specifies that following the board's contingent approval of a plate, the vendor must get at least 200 commitments within six months of the approval for a plate to be produced. (Equally, existing plates must maintain 200 registered to stay in the program.) My Plates' procedure is to first offer a plate to the public to register their interest. Following the board's contingent approval, My Plates then offers a plate online for prepaid orders. My Plates confirms when 200 prepaid orders are achieved. Since March 2014, the board has contingently approved 36 vendor plates. Of the 36, nine did not achieve the required 200 commitments and were not produced.

TxDMV's procedure is to invite comments on all proposed plates ahead of the board's review. The department's intent is to determine if there are any unforeseen public concerns about a plate design. The department publishes a 10-day "like/dislike/comment-by-email" survey, called an eView, on its website. Although the survey counts the public's "likes" and "dislikes," it is unscientific and not used as an indicator of a plate's popularity.

The University of Texas at San Antonio plate and the Love Heart Black plate designs were presented to the public in an April 2021 eView, and the Louisiana State University and Mississippi State University plate designs were presented to the public in a May 2021 eView. No negative comments were received. The count of the public's "like/dislikes" are below with the designs.

The University of Texas at San Antonio

817 people liked this design and 161 did not

New



Love Heart Black

390 people liked this design and 280 did not

New



Louisiana State University

189 people liked this design and 144 did not

Current (State Plate)



Crossover/Redesign



Mississippi State University

117 people liked this design and 171 did not

Current



Redesign



The University of Texas at San Antonio (New)



Love Heart Black (New)





Louisiana State University (Crossover/Redesign)



Mississippi State University (Redesign)



Board Meeting Date: 8/5/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 10
Subject: **Advisory Committee Appointments**
- Customer Service Advisory Committee (CSAC) (ACTION ITEM)
- Motor Carrier Regulation Advisory Committee (MCRAC) (ACTION ITEM)
- Motor Vehicle Industry Regulation Advisory Committee (MVIRAC) (ACTION ITEM)

RECOMMENDATION

That the Texas Department of Motor Vehicles Board appoint the individuals from the list of potential members presented to the board by the executive director for the Customer Service Advisory Committee; Motor Carrier Regulation Advisory Committee; and Motor Vehicle Industry Regulation Advisory Committee.

PURPOSE AND EXECUTIVE SUMMARY

To complete the implementation of Transportation Code §1001.031, directing the board to establish advisory committees by appointing advisory members to the Customer Service Advisory Committee; Motor Carrier Regulation Advisory Committee; and Motor Vehicle Industry Regulation Advisory Committee.

FINANCIAL IMPACT

No financial impact.

BACKGROUND AND DISCUSSION

The Sunset Advisory Commission recommended (Recommendation 1.7) that the board “establish advisory committees to provide expertise for rulemaking and other issues and adopt rules regarding standard committee structure and operating criteria.”

Under Transportation Code §1001.031, the board established five advisory committees by rules. The rules establishing these advisory committees as well as their purpose, use and structure, were adopted by the board in the August 8, 2019 board meeting. The members of two committees have been selected. The members of the remaining three committees are being proposed in this action. The board is required to “appoint members to an advisory committee by selecting them from a list of potential members provided by the executive director.” Further, the board is required, to the extent practical, to consider the balance of the advisory committee to ensure representation of: industries or occupations regulated or indirectly regulated by the board, consumers of services provided by the board, and different geographical regions of the state.

No.	Applicant	Residency	Employer	Area of Expertise
1	Richard Cavender, CPAC Member	San Antonio, TX	Audi Dominion - Dealer Principal	Consumer Issues; Vehicle Registration; Motor Vehicle Dealer; Motor Carrier; Motor Vehicle Licensing; Vehicle Titles
2	Thomas Johnson Drake, VTRAC Member	Rockdale, TX	Auto Data Direct, Inc. - National Towing Manager	Vehicle Registration; Vehicle Titles
3	Tina May Carter	Austin, TX	Travis County Tax Office - Motor Vehicle Supervisor	Consumer Issues; Vehicle Registration; Motor Vehicle Dealer; Vehicle Titles
4	Stephen Wayne Palacios	San Antonio, TX	Bexar County Tax Assessor-Collector Office - Chief Deputy of Operations	Consumer Issues; Vehicle Registration; Vehicle Titles; Other
5	Bruce Queinton Stidham	Whitewright, TX	Grayson County - Tax Assessor Collector	Vehicle Registration
6	Brian Everett Daugbjerg	Longview, TX	Longview Scrap & Metal - Owner	Motor Carrier
7	Susan K. Sutton	Cypress, TX	Texas Motor Transportation Consultants LLC - Senior Title Administrator	Consumer Issues; Vehicle Registration; Vehicle Titles; Other
8	Ruben P. Gonzalez, CPAC Member	El Paso, TX	El Paso County - Tax Assessor Collector	Consumer Issues; Vehicle Registration; Motor Vehicle Dealer; Motor Carrier; Salvage Dealer; Motor Vehicle Licensing; Vehicle Titles
9	Melissa A. Peace, CPAC First Vice Chair	Midlothian, TX	Transportation Compliance Services USA - Certified Compliance Specialist	Consumer Issues; Vehicle Registration; Motor Carrier; Motor Vehicle Licensing; Vehicle Titles
10	Billie Ann Aliu	Friendswood, TX	Samsung Engineering America - Sr. HR Manager	Other
11	Lori Lenae King	Mulin, TX	Mills County - Tax Assessor-Collector	Consumer Issues; Vehicle Registration; Vehicle Titles
12	John Richard Ames	DeSoto, TX	Dallas County - Tax Assessor Collector	Vehicle Registration; Vehicle Titles; Other
13	Ford Earl Wagner	New Braunfels, TX	Texas Auto Carriers, Inc. - COO	Motor Carrier
14	Christopher Gatson	Houston, TX	Texas Gulf Coast Auto Title - Title Clerk	Consumer Issues; Vehicle Registration; Vehicle Titles

No.	Applicant	Residency	Employer	Area of Expertise
15	Russell Lonzo Hayter	Mountain City, TX	Retired	Consumer Issues; Vehicle Registration
16	Kristen Haley Hoyt	New Braunfels, TX	Comal County - Tax Assessor-Collector	Vehicle Registration; Motor Vehicle Licensing; Vehicle Titles
17	Donnika Nicole Duncan	Fort Worth, TX	Tarrant County - Motor Vehicle Specialist II	Vehicle Registration; Vehicle Titles

August 3, 2021
**Motor Carrier Regulation Advisory Committee
 Names for Consideration by the TxDMV Board**

No.	Applicant	Residency	Employer	Area of Expertise
1	Mitch Henderson	Tyler, TX	Self-employed - CEO	Motor Carrier
2	Carl Thomas Byerley	Texarkana, TX	UrTruck LLC in Texarkana, Texas - Owner	Motor Carrier
3	Patrick Sean Connelly	San Antonio, TX	Suarez Bros Crane and Heavy Haul LLC - Vice President/Partner	Motor Carrier
4	William Scott Green	Lufkin, TX	Angelina Manufacturing - General Manager	Motor Carrier
5	John Hallmark	Magnolia, TX	Hallmark Transport Services Corp - Owner	Motor Carrier
6	Mat Taylor McClure	Midland, TX	Frontier Tubular - Transportation Manager	Motor Carrier
7	Phillip Blaine Penn	Saginaw, TX	PennCo Transport, Inc. - President	Vehicle Registration; Motor Carrier; Motor Vehicle Licensing; Vehicle Titles; Other
8	Neil Wayne Roberts	Azle, TX	Raider Express, Inc. - Fleet Director	Vehicle Registration; Motor Carrier; Motor Vehicle Licensing; Vehicle Titles
9	Donna Carol Willis	Tahoka, TX	Lynn County - Tax Assessor Collector	Consumer Issues; Vehicle Registration; Motor Carrier; Motor Vehicle Licensing; Vehicle Titles
10	Gina Zavala	Houston, TX	Texas Motor Transportation Consultant LLC - Office Manager	Vehicle Registration; Motor Carrier; Motor Vehicle Licensing; Vehicle Titles; Other
11	Brian Everett Daugbjerg	Longview, TX	Longview Scrap & Metal - Owner	Motor Carrier

August 3, 2021
**Motor Carrier Regulation Advisory Committee
 Names for Consideration by the TxDMV Board**

No.	Applicant	Residency	Employer	Area of Expertise
12	Karl Phillip Radde	North Zulch, TX	Southern Comfort Homes - President/GM	Consumer Issues; Vehicle Registration; Motor Carrier; Other
13	John H. Walker	Houston, TX	J H Trucking - President	Consumer Issues; Vehicle Registration; Motor Carrier; Motor Vehicle Licensing; Vehicle Titles
14	James Gordon French, CPAC Member	San Antonio, TX	Scobey Moving and Storage LTD - Vice President	Consumer Issues; Motor Carrier
15	Mark Ray Chaney	Spring, TX	Houston Police Department - Commercial Vehicle Enforcement - DOT	Motor Carrier
16	Kevin Lee Althoff	Valleymills, TX	Althoff Farms, Inc. - President (Self-employed)	Motor Carrier
17	Rudy Hille	Venus, TX	Transportation Compliance Services USA - Compliance Specialist	Motor Carrier
18	Traci Lynne McCullah, CPAC Member	Tomball, TX	Westar Moving & Storage, Inc. - Vice President	Consumer Issues; Motor Carrier
19	Dana Clark Moore, VTRAC Member	Leander, TX	Southwest Movers Association - Director of Policy and Government Relations	Consumer Issues; Vehicle Registration; Motor Carrier; Other
20	Ford Earl Wagner	New Braunfels, TX	Texas Auto Carriers, Inc. - COO	Motor Carrier

No.	Applicant	Residency	Employer	Area of Expertise
1	Beatrice Acosta	Austin, TX	Travis County Tax Office - Tax Supervisor	Vehicle Registration; Motor Vehicle Dealer; Motor Carrier; Salvage Dealer; Vehicle Titles
2	David Earl Blassingame	Dallas, TX	Autoflex Leasing & Blassingame Consulting - Special Projects Coordinator and Owner of Consulting Company	Consumer Issues; Motor Vehicle Dealer; Other
3	Michael Walter Bradburn Sr	Temple, TX	Travis County Constable Precinct 3 - Corporal	Consumer Issues; Motor Vehicle Dealer; Salvage Dealer
4	Mark Harold Brown	New Braunfels, TX	Red Carpet Auto Sales Co. - Owner	Motor Vehicle Dealer
5	Christopher Sean Donnelly	The Woodlands, TX	Donnelly Auto Group - President/Managing Member	Vehicle Registration; Motor Vehicle Dealer; Vehicle Titles
6	Laird McGraw Doran, CPAC Presiding Officer	Houston, TX	The Friedkin Group - Vice President & Senior Counsel	Consumer Issues; Vehicle Registration; Motor Vehicle Dealer; Motor Carrier; Motor Vehicle Licensing; Vehicle Titles
7	Rita Lynn Edwards	Sulpher Springs, TX	Edwards Used Cars - Office Manager, Title Clerk, Finance Manager, Bookkeeper, Sales	Vehicle Registration; Motor Vehicle Dealer; Motor Vehicle Licensing; Vehicle Titles
8	Lloyd "Buddy" Ernest Ferguson	Waco, TX	Barack Ferrazzano Kirschbaum & Nagelberg, LLP - Partner	Other
9	Joshuah Brian Greenlaw	Tomball, TX	Wild West Motoplex - General Manager	Consumer Issues; Vehicle Registration; Motor Vehicle Dealer; Motor Vehicle Licensing; Vehicle Titles
10	Russell Lonzo Hayter	Mountain City, TX	Retired -	Consumer Issues; Vehicle Registration
11	Jeff Martin	Leander, TX	Texas Independent Automobile Dealers Association - Executive Director	Vehicle Registration; Motor Vehicle Dealer; Motor Vehicle Licensing; Vehicle Titles
12	William J. Murphy	Hunt, TX	Self-employed - Owner	Consumer Issues; Vehicle Registration; Motor Vehicle Dealer; Salvage Dealer
13	Stephen Earl Prather, Sr.	Houston, TX	Retired -	Consumer Issues; Vehicle Registration; Motor Vehicle Dealer; Motor Vehicle Licensing; Vehicle Titles

No.	Applicant	Residency	Employer	Area of Expertise
14	Franklin Scott Sims	Abilene, TX	Freedom Motors - Owner	Consumer Issues; Vehicle Registration; Motor Vehicle Dealer; Motor Vehicle Licensing; Vehicle Titles; Other
15	Trey Sralla	Wichita Falls, TX	Eddie Hill's Fun Cycles - General Manager	Motor Vehicle Dealer
16	Scott Arthur Stark	Austin, TX	South Point Hyundai, Genesis of Austin, South Point Dodge Chrysler Jeep and Ram - President/Owner	Consumer Issues; Motor Vehicle Dealer
17	Bryan Phillip Sudan	Fort Worth, TX	Tarrant County - Commander Tarrant Regional Auto Crimes Task Force	Vehicle Registration; Motor Vehicle Dealer; Salvage Dealer; Motor Vehicle Licensing; Vehicle Titles; Other
18	Kalien Moody Thomas	Waxahachie, TX	Frontera Truck Parts & Equipment, Inc. - Office Manager	Motor Vehicle Dealer; Motor Vehicle Licensing; Vehicle Titles
19	Jimmy Vitela	Spring, TX	Northstar Auto Group/Vitela Investment, LLC - CEO	Consumer Issues; Vehicle Registration; Motor Vehicle Dealer; Salvage Dealer; Motor Vehicle Licensing
20	Greg Frank Zak	Sugar Land, TX	Dixon Motors - President/Owner	Consumer Issues; Motor Vehicle Dealer; Motor Vehicle Licensing; Other

Board Meeting Date: 8/5/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 11.A
Subject: TxDOT Interagency Contract FY 2022-2023

RECOMMENDATION

The department recommends that the board authorize the TxDMV Executive Director (or designee) to finish negotiating the interagency contract between TxDMV and the Texas Department of Transportation (TxDOT) for fiscal years 2022–2023. The department also recommends that the board authorize the TxDMV Executive Director to execute the final contract with approval from the Board Chairman.

PURPOSE AND EXECUTIVE SUMMARY

TxDMV has negotiated and executed an interagency contract with TxDOT every year since TxDMV became an agency. The interagency contract is necessary due to shared facilities, and the need to cooperate on different programs and issues, such as the routing of certain overweight vehicles.

FINANCIAL IMPACT

The interagency contract sets TxDMV's maximum payment at \$1 million per fiscal year.

BACKGROUND AND DISCUSSION

TxDMV provided a draft contract to TxDOT, using the language in the current contract as the starting point. TxDMV and TxDOT deleted language that is no longer needed, added language to improve the coordination between the two agencies and updated information in the proposed contract. For example, we:

1. deleted certain services that TxDOT no longer provides since TxDMV has its own contracts for the services, such as landscaping and pest control;
2. updated the databases of information that TxDOT will provide to TxDMV to route permitted vehicles; and
3. updated the contacts for each agency.

TxDOT approved TxDMV's attached draft, subject to any changes that TxDOT's Information Technology Division requests. TxDOT's Information Technology Division has indicated it will attempt to review the attached draft by August 9, 2021.

Board Meeting Date: 8/5/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Sergio Rey, Finance & Administrative Services Interim Division Director
Agenda Item: 11.B
Subject: San Antonio Regional Service Center Lease

RECOMMENDATION

Authorize the Department's Executive Director to negotiate and execute, in conjunction with the Texas Facilities Commission (TFC), a new lease contract for the San Antonio Regional Service Center (RSC) for a ten-year term.

PURPOSE AND EXECUTIVE SUMMARY

Request the TxDMV Board grant authority approval to the Executive Director to approve a lease contract, in conjunction with the Texas Facilities Commission (TFC) for the San Antonio Regional Service Center for a replacement lease on a ten-year term. A new lease could potentially be in place as early as September 2021 and would potentially run through the year 2031.

FINANCIAL IMPACT

Upon identifying a property, negotiating a lease and executing a contract, TxDMV will commit to a ten-year (120 month) lease term for a property meeting TxDMV's specification and within existing operating budget allowances.

BACKGROUND AND DISCUSSION

There have been ongoing roof, leak and maintenance related issues with the current San Antonio Regional Service Center (RSC) at the Nacogdoches Road location since the lease commenced back in 2017. Because the problems have persisted without a permanent resolution for several years, TxDMV met with the TFC in January 2021 to discuss the continued concerns and a desire to begin a new property search to relocate the office. TFC conferred with the current landlord who has agreed to an amicable no-fault move out as soon as TFC can execute a contract for a new location and designate a move date.

TFC began conducting a new property search earlier this year. Although TxDMV has been interested in several properties, high parking ratio requirements have eliminated numerous otherwise viable properties from consideration. Most properties offer only a 4:1 employee-based parking ratio (i.e., 1 parking space per every 4 employees) or similar, which does not meet RSC operational or customer service volume needs.

TFC is currently reviewing properties for consideration in relation to TxDMV specified needs to include:

- **Location:** Within San Antonio, preferably within 10-15 mile radius of current location
- **Square Footage:** ~2,916 sq ft
- **Lease Term:** 120 Months (10 years)
- **Lease Commencement:** As early as September 2021 or at substantial completion of tenant improvements
- **Parking:** ~75 on-site, non-reserved parking spaces
- **Signage:** Allowance for placing TxDMV logo signage on building required.
- **Contiguous Space Location:** All contiguous space (occupied areas) to be located on a ground floor

- Added Requests: Lease to be inclusive of janitorial services and utilities.
- Restrooms: Staff restroom(s) to be separate from public (customer) restrooms. Staff restroom(s) to be located within secured staff office space.
- Plumbing: 2 sets of chilled drinking fountains; one in public (customer) space and one in secured staff office space.
- ADA and ADAAG Requirements: Standard Americans with Disabilities Act (ADA) and Americans with Disabilities Act Accessibility Guideline (ADAAG) requirements must be met throughout available space.

Board Meeting Date: 8/4/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Sergio Rey, Finance & Administrative Services Interim Division Director
Agenda Item: 11.C
Subject: FY 2022 Recommended Annual Operating Budget

RECOMMENDATION

1. Approval of the Recommended Fiscal Year (FY) 2022 Operating Budget.
2. Approval for the Executive Director to negotiate and execute the routine and required contracts, and includes two contracts that require Board approval at this time as follows:
 - a. Southwest Research Institute (SWRI) (\$600,000). This contract provides specialized maintenance and consulting services for the Motor Carrier Division for the Texas Commercial Vehicle Information Exchange Window.
 - b. American Association of Motor Vehicle Administrators (AAMVA) National Motor Vehicle Title Information System (NMVTIS) (\$416,083). This contract allows the agency to maintain required access to AAMVA NMVTIS.

PURPOSE AND EXECUTIVE SUMMARY

The recommended operating budget totals \$178.4 million, with 808 FTEs and is structurally balanced to support the operational needs of the department. The Texas Department of Motor Vehicles (TxDMV) recommended annual operating budget is based on the first year of the biennial appropriations included in the General Appropriations Act (GAA), funds appropriated for specific legislation and adjustments for eligible carry-forward funds of unspent balances (UB) previously appropriated.

FINANCIAL IMPACT

The recommended FY 2022 operating budget of \$178.4 million will be primarily funded through the TxDMV Fund 0010 of \$161.7 million, General Revenue Fund 0001 of \$ 15.9 million and federal reimbursements of \$743,750.

BACKGROUND AND DISCUSSION

Revenues

FY 2022 TxDMV Fund 0010 revenues are estimated to total \$164.5 million. This amount includes collections from the processing and handling fee of \$55.7 million, titles and registration fees totaling \$77.0 million, and oversize/overweight permits fees estimated at \$16.0 million. TxDMV staff estimates the TxDMV will collect approximately \$2.1 billion for the State in all funds during FY 2022.

Appropriations

The FY 2022 recommended operating budget of \$178.4 million is based on new appropriations of \$156.2 million for the first year of the biennium as approved through the GAA and \$22.2 million in other adjustments. The budget includes

funding for 808 full-time equivalents (FTE). The FY 2022 recommended budget includes funding for core functions, capital projects, information technology, central administration and agency-wide expenditures and the use of other funds through carry-forward provisions and contingency riders.

- \$89.3 million – Core Functions;
- \$22.0 million – Capital Projects;
- \$17.8 million – Information Technology;
- \$16.2 million – Central Administration;
- \$ 10.9 million – Agency-wide; and
- \$22.2 million – Other adjustments (UBs, supplemental appropriations for specific items and rider contingencies).

Specific appropriations of interest include:

- webSALVAGE (\$3.1 million);
- Planning for a new HQ Building (\$6.2 million);
- Motor Vehicle Crime Prevention Authority (MVCPA) additional funding (\$ 2.1 million);
- Accounts Receivable project (\$3.4 million, including 2 new FTEs);
- Certain County Fleet Vehicle project (one-time programming costs of \$250,000); and
- Texas Consumer Privacy Act Phase I – (\$285,538, including 4 new FTEs)

Riders

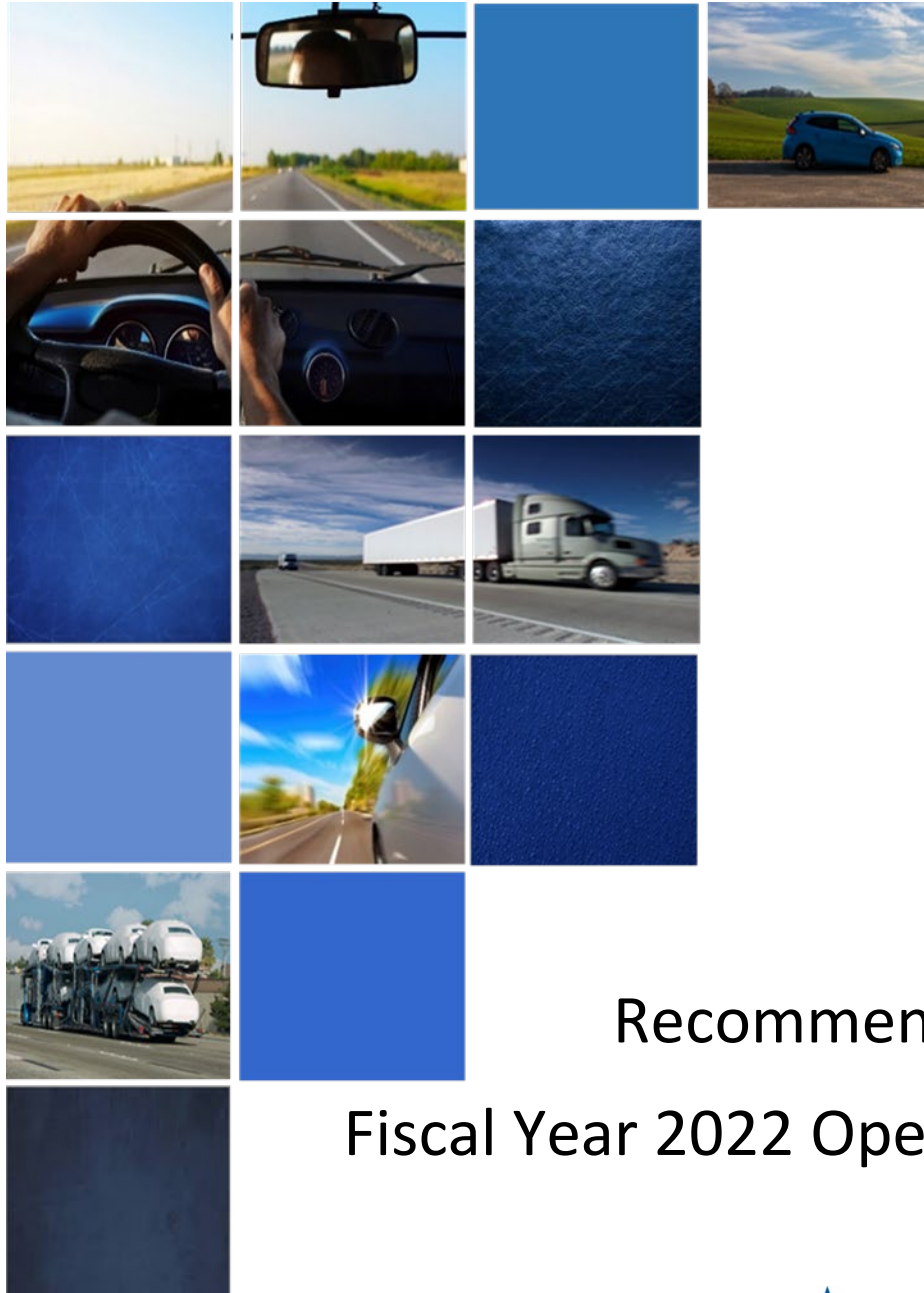
The GAA included six riders that provide the authority to the department to make certain expenditures and the use of carry-forward funds. The riders include items for authorizing appropriations for Specialty License Plates contract and authority to use carry-forward funds in specific areas. The final rider directs the department to report annually on the TxDMV Fund.

Contracts Requiring Board Approval

The department's resolution adopting contract approval procedures specifies that the Executive Director must obtain board approval for contracts \$200,000 or more prior to award or renewal unless specifically excluded. Included in this document are two contracts that staff is requesting Board approval:

Southwest Research Institute (SWRI) (\$600,000) – This contract stipulates modifications to the TxCVIEW as Federal Motor Carrier Safety Administration (FMCSA) moves their data to a cloud environment; modifies some of their web services; changes databases or requirements for TxCVIEW; and facilitates FMCSA's rollout of a new Unified Carrier Registration application.

American Association of Motor Vehicle Administrators (AAMVA) (\$416,083) – This contract provides online access to meet the TxDMV's obligation to receive and report information to the National Motor Vehicle Title Information System (NMVTIS) as required by federal statute. NMVTIS serves as a repository of information related to vehicles that have been in the possession of auto recyclers, junk yards and salvage yards. States and consumers use the information to ensure that junk or salvage vehicles are not later resold and ensures that vehicle identification numbers (VINs) from destroyed vehicles are never used for stolen vehicles.



Recommended
Fiscal Year 2022 Operating Budget



Texas Department *of* Motor Vehicles

August 4-5, 2021

Table of Contents

Part I: Executive Summary	3
Executive Summary.....	4
Part II: FY 2022 Recommended Operating Budget	5
FY 2022 Recommended Operating Budget by Appropriation	6
FY 2022 Operating Budget by Appropriation.....	7
Exceptional Items and Additional Appropriations	8
FY 2022 Expenditure Budget Highlights.....	9
FY 2022-2023 Riders	11
Part III: FY 2022 Revenues.....	12
FY 2021-2023 Revenue Summary	13
Motor Vehicle Crime Prevention Authority Revenues	15
Part IV – Revenues vs. Obligations.....	17
FY 2022 TxDMV Estimated Revenues vs. Obligations.....	18
Part V: Contracts	19
Fiscal Year 2022 Contract Summary	20
Part VI: Appendices.....	40
Appendix I: Budget Category Details	41
FY 2022 Recommended Operating Budget by Expenditure Area.....	42
Appendix II – Capital Project Details.....	45
Capital Project Details.....	46
Appendix III – FY 2020-2021 Accomplishments.....	50
FY 2020-2021 Accomplishments.....	51
Appendix IV – TxDMV Appropriations History.....	54
Texas Department of Motor Vehicles - Appropriations History	55
Appendix V: Budget Terms and Definitions.....	56
Appendix VI: Finance and Administrative Services Contacts.....	59
Finance and Administrative Services Contacts	60

Part I: Executive Summary

Executive Summary

The vision and mission are the fundamental principles that the Texas Department of Motor Vehicles (TxDMV) Board adopts to guide and direct the department to achieve.

TxDmv Vision

The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

TxDmv Mission

To serve, protect and advance the citizens and industries in the state with quality motor vehicle-related services.

These principles are the foundation of how we develop our goals, strategies, activities and operations. They are the focus of the approach of our Strategic Plan, the Legislative Appropriation Request, including exceptional items and finally, the Recommended Operating Budget.

Each of these steps ensure that the department can meet its current needs and as importantly, our future needs.

The last year presented challenges to the nation, state and the TxDMV, unprecedented in history. The impacts of the pandemic, the winter storm, a volatile oil and gas market, combined with the overall effects these events had on the national and state economies, could take years for full recovery.

TxDmv responded to each event with agility, adaptability and a determined focus to place our employees, our customers and stakeholders first and foremost, while still maintaining the excellent level of service that is expected of us. We worked with our county partners to provide continuous services, with little or no service disruption.

The Recommended Operating Budget sets forth how we intend to move into Fiscal Year (FY) 2022, maximizing the use of our appropriated funds and always mindful of our commitment to the taxpayers and citizens of Texas.

Part II: FY 2022 Recommended Operating Budget

FY 2022 Recommended Operating Budget by Appropriation

The General Appropriations Act (GAA) appropriated \$156.2 million for Fiscal Year (FY) 2022.

Funds are appropriated by categories known as strategies. These amounts fund the TxDMV FY 2022 annual operations. The Recommended Operating Budget also includes carry-forward funds that were previously appropriated as well as certain other allowable costs.

TxDmv strategies are allocated through three broad categories as follows:

- **Core functions** totaling 70% of TxDMV's new FY 2022 appropriations, or \$108.8 million.
- **Technology enhancements, automation projects and Information Resources** totaling 21% of TxDMV's new appropriations, or \$32.8 million; and
- **Central Administration** totaling 9% of TxDMV's new appropriations, or \$14.6 million.

Strategy/Category Detail

The recommended budget also includes adjustments between strategies for position transfers and increases to appropriations for Benefit Replacement Pay (BRP) (see Budget Terms and Definitions) and estimated carry-forward of FY 2021 unexpended balances in Automation, HQ Maintenance and supplemental appropriations approved by the Legislature during the 87th Legislative Session.

- **Core Functions include:**
 - Providing title, registration and specialty license plate services (Goal 1, Strategy A.1.1.);
 - Regulating vehicle industry licensing (Goal 1, Strategy A.1.2.);
 - Issuing motor carrier permits and credentials (Goal 1, Strategy A.1.3.)
 - Responding to customer inquiries through the Contact Center (Goal 1, Strategy A.1.5.)
 - Performing enforcement activities such as conducting investigations, including those of fraud, waste and abuse (Goal 2, Strategy B.1.1.)
 - Assisting in the prevention of motor vehicle crime prevention (Goal 2, Strategy B.2.1.)
- **Technology Enhancements and Automation Projects and Information Resources include:**
 - Upgrades, enhancements and deployment of systems that primarily support the department's core functions and its partners and the department resources dedicated to supporting these systems (Goal 1, Strategy A.1.4.; Goal 3, Strategy C.1.2.).
- **Central Administration includes:**
 - Support functions such as human resources, financial and administrative services, government and strategic communications and other offices and support services that are critical to the maintaining day-to-day operations of the TxDMV (Goal 3, Strategies C.1.1. and C.1.3.

FY 2022 Operating Budget by Appropriation

The following table reflects the amounts approved in the GAA (S.B. 1, 87th Legislature, Regular Session), plus carry-forward funds from previous years that are available for the department to spend in FY 2022.

A. Goal: Optimize Services and Systems	FY 2022 Recommended Operating Budget	
A.1.1. Strategy: Titles, Registrations, and Plates	\$	70,535,138
A.1.2. Strategy: Vehicle Dealer Licensing	\$	4,137,968
A.1.3. Strategy: Motor Carrier Permits & Credentials	\$	9,031,571
A.1.4. Strategy: Technology Enhancement & Automation	\$	7,704,575
A.1.5. Strategy: Customer Contact Center	\$	3,269,094
Total, Goal A: Optimize Services and Systems	\$	94,678,346
B. Goal: Protect the Public		
B.1.1. Strategy: Enforcement	\$	6,891,578
B.2.1. Strategy: Motor Vehicle Crime Prevention Authority	\$	14,979,605
Total, Goal B: Protect the Public	\$	21,871,183
C. Goal: Indirect Administration		
C.1.1. Strategy: Central Administration	\$	9,133,973
C.1.2. Strategy: Information Resources	\$	25,080,639
C.1.3. Strategy: Other Support Services	\$	5,445,834
Total, Goal C: Indirect Administration	\$	39,660,446
Grand Total TxDMV Appropriation Budget	\$	156,209,975
Other Adjustments		
Estimated Increase for Benefit Replacement Pay	\$	48,269
Projected Unexpended Balance Carry-Forward (UB) from FY 2021		
Capital - TxDMV Automation Systems	\$	6,312,427
Capital - HQ Maintenance	\$	2,748,087
HB 2 Supplemental Appropriations and Rider Contingencies	\$	13,044,036
Total, Other Adjustments	\$	22,152,819
Total TxDMV Operating Budget	\$	178,362,794
Method of Finance		
General Revenue Fund (includes estimated Automation UB)	\$	15,950,282
TxDMV Fund (includes estimated Automation and Other Capital UB)	\$	161,668,761
Federal Reimbursements	\$	743,750
Total, Method of Finance	\$	178,362,794
Total Authorized FTEs		808.00

Exceptional Items and Additional Appropriations

Exceptional Items: are programs and services that are not included in the baseline budget request and that the department requested to fund activities to enhance current or future activities. TxDMV originally submitted nine exceptional items in September 2020. The table below details the TxDMV's exceptional items requested and the disposition.

Exceptional Items	TxDMV Baseline Request		Approved Amounts	
	Amount	FTEs	Amount	FTEs
Automation Funding - webSALVAGE	\$ 3,133,578	-	\$ 3,133,578	-
Building 5 Replacement	\$ 6,187,500	-	\$ 6,187,500	-
Accounts Receivable System	\$ 3,472,958	2.0	\$ 3,472,958	2.0
County Fleet Vehicle Registration**	-	-	\$ 250,000	-
Total TxDMV Fund	\$ 12,794,036	2.0	\$ 13,044,036	2.0
Additional MVCPA Grant Funding*	\$ 8,575,016	-	\$ 4,287,508	-
Total General Revenue Fund	\$ 8,575,016	-	\$ 4,287,508	-
FY 22-23 Grand Total	\$ 21,369,052	2.0	\$ 17,331,544	2.0

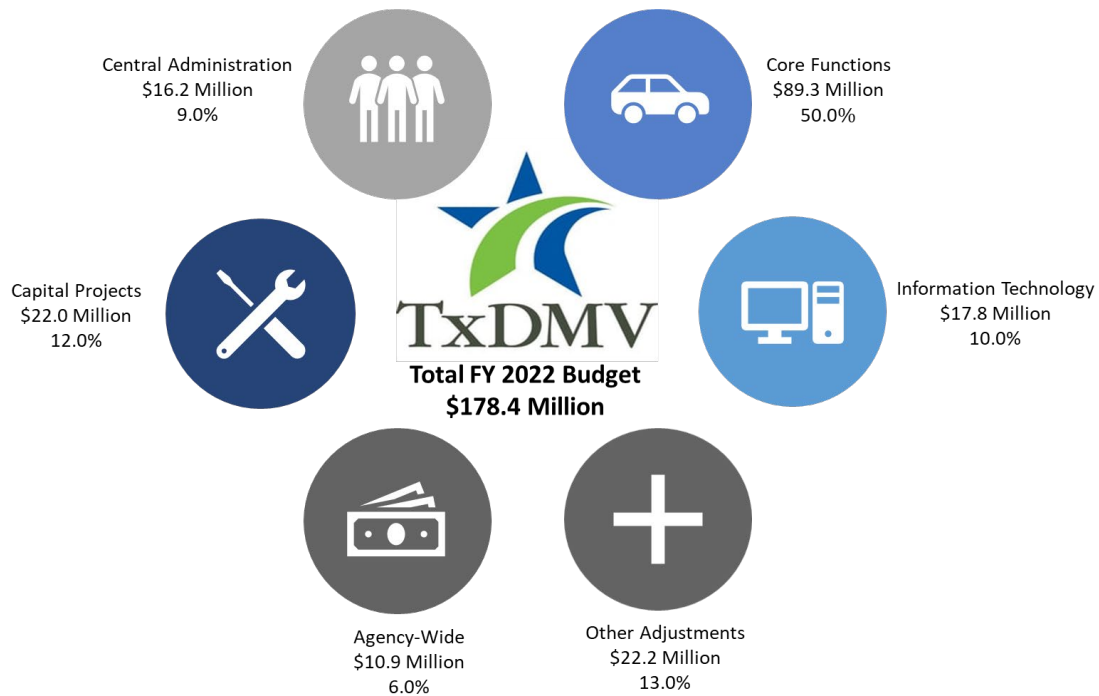
*Note: TxDMV only received 50% of the original exceptional item request for MVCPA grant funding.

**Note: County Fleet Vehicle Registration item was not an original exceptional item but was added by the 87th Legislature.

Items Requested Not Approved			
Complaint Management System	\$ 5,225,712	-	Not Approved
Houston RSC Sub-Station	\$ 1,180,119	4.0	Not Approved
Dallas RSC Sub-Station	\$ 855,970	2.0	Not Approved
MVCPA Expanded Coverage	\$ 7,388,883	-	Not Approved
MVCPA Fee Collection Unit	\$ 560,000	3.0	Not Approved

FY 2022 Expenditure Budget Highlights

TxDMV's FY 2022 preliminary operating budget totals \$178.4 million from new GAA appropriations as well as carry-forward funds. The following highlights expenditures by broad category and function.



Core Functions: \$89.3 Million



Core functions include funding for Vehicle Titles and Registration, Motor Vehicle, Motor Carrier (Oversize/Overweight and Texas IRP), Enforcement, MVCPA, Consumer Relations and the Office of Administrative Hearings activities.

Capital Projects: \$22.0 Million



Major technology capital initiatives include new appropriations that will be utilized for addressing Registration and Title System (RTS) defects and a rewrite of the Motor Carrier Credential System (MCCS). Funding is also approved for the continuation of Data Center Services (DCS), County Technology and Agency Growth and Enhancement. Other initiatives in FY 2022 include Regional Service Center (RSC) improvements, replacement vehicles and Headquarters maintenance projects that will be funded through the carry-forward of funds from FY 2021.

Information Technology: \$17.8 Million



Provides administrative and management oversight of all department technology functions and technology projects.

Central Administration: \$16.2 Million

Provides funding for executive management and administrative services such as the Executive Office, Finance and Administrative Services, General Counsel, Human Resources, Government and Strategic Communications, Internal Audit and Board Support.

Agency Wide: \$10.9 Million

Provides funding for department expenses such as fringe benefits and special programs, specialty license plates fees and credit card payments. License Plates of Texas, LLC is the vendor that designs, markets and sells specialty license plates.

Other Adjustments: \$22.2 Million

Provides funding for certain benefits and estimated funds that will carry forward from FY 2021. This includes new funding provided for the modifications to the webSALVAGE system and implementation of an Accounts Receivable system.

FY 2022-2023 Riders

Within the GAA, the Legislature provides specific instructions, or **Riders**, regarding the expenditure or collection of funds by an agency. The department did not request any modifications to its riders for FY 2022-2023 budget cycle. The chart below lists the current riders included in the GAA.

Riders Approved for FY 2022-2023
<p>Special License Plates This rider provides additional appropriations each year of the biennium for making payments to the contract vendor for the marketing and sale of specialty license plates. The rider also allows for unexpended balances to be carried-forward into the next fiscal year of the biennium for the same purposes.</p>
<p>Unexpended Balance and Capital Authority – TxDMV Automation System This rider allows the department to carry-forward any unexpended funds appropriated in Strategy A.1.4, Technology Enhancement and Automation, for the TxDMV Automation System capital budget projects remaining at the end of FY 2021 and expended for the same purpose to the new biennium beginning September 1, 2021.</p>
<p>Texas Department of Motor Vehicles Fund Report This rider requires the department to submit an annual report on TxDMV Fund 0010 expenditures/revenues to the Legislative Budget Board.</p>
<p>Unexpended Balance – Federal Grants and State Matching Funds This rider allows the department to carry-forward any unexpended balances of state matching funds for federal grants remaining at the end of FY 2021 for the same purpose to the new biennium beginning September 1, 2021.</p>
<p>Unexpended Balance – TxDMV Headquarters Maintenance Projects This rider allows the department to carry-forward to the new biennium beginning September 1, 2021 any unexpended funds appropriated in Strategy C.1.3, Other Support Services capital budget projects for the Headquarters Maintenance Projects Capital remaining at the end of FY 2021.</p>
<p>Unexpended Balance Within the Biennium This rider allows the department to carry-forward any unexpended funds appropriated to TxDMV at the end of FY 2022 for the same purpose for the new fiscal year beginning September 1, 2022.</p>
<p>Contingency Rider for Senate Bill 15 (SB 15) This rider provides funding and four FTEs for the implementation of the provisions of SB 15, known as the Texas Consumer Privacy Act Phase I. Funding in the amount of \$284,538 is approved for FY 2022 and \$253,038 in FY 2023 for four FTEs in the Vehicle Titles and Registration (VTR) Division.</p>
<p>Contingency for Senate Bill 1064 (SB 1064) This contingency provides funding for the implementation of the provisions of SB 1064, which is related to the extended registration of certain county fleet vehicles. Funding in the amount of \$250,000 is approved for one-time programming changes.</p>

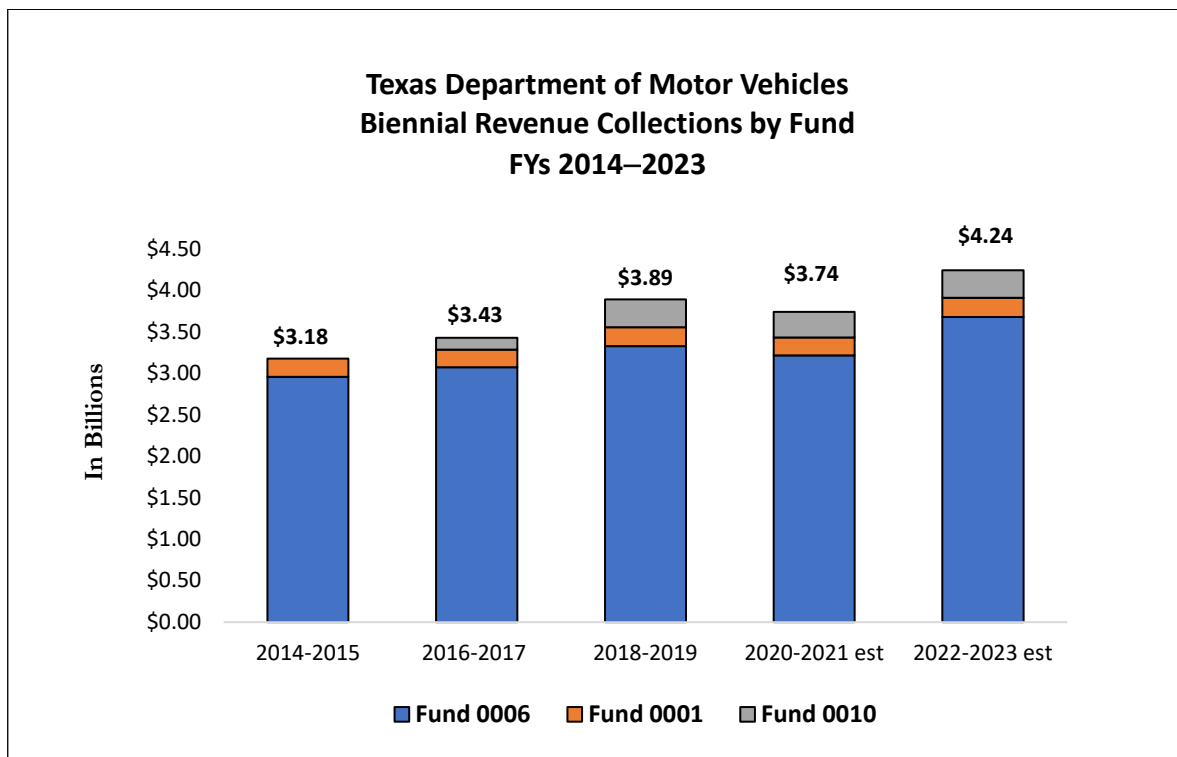
Part III: FY 2022 Revenues

FY 2021-2023 Revenue Summary

TxDMV collects revenue from registrations, dealer licenses, titles, permits and credentials and some miscellaneous revenue and deposits those funds into three funds, as follows:

- the State Highway Fund (Fund 0006);
- the General Revenue Fund (Fund 0001);
- the TxDMV Fund (Fund 0010).

During FY 2022-2023, the department projects All Funds revenue collections are estimated to total \$4.25 billion: \$2.10 billion in FY 2022 and \$2.15 billion in FY 2023.



In the FY 2022-2023 biennium, TxDMV Fund revenue collections are projected to be \$332.49 million, a 7.0% increase compared to the FY 2020-2021 biennium. This increase is primarily due to recovery in overall economic activity since the onset of the pandemic, including a slight increase in oil and gas prices and production. Growth in revenues is expected to continue as economic activity improves.

Revenues for all funds significantly declined in FY 2020 compared to FY 2019, primarily due to COVID-19 (which included gubernatorial-directed waivers and deferrals of payment of certain registration and title fees), combined with a volatile oil and gas market and the effects that the pandemic had on the national and state economies. The certain waivers were lifted on April 14, 2021, and the remainder were terminated on July 16, 2021.

FY 2020-2023 Revenue Summary

Revenue Fund and Fee Categories	FY 2020 Actual	FY 2021 <i>Estimated</i>	FY 2022 <i>Estimated</i>	FY 2023 <i>Estimated</i>
General Revenue Fund 0001				
Motor Vehicle Certificates of Title	\$33,394,011	\$33,930,000	\$35,405,000	\$36,440,000
Motor Vehicle Registration	\$17,644,163	\$22,675,000	\$17,458,000	\$17,721,000
Motor Carrier - Oversize/Overweight	\$46,001,885	\$42,411,000	\$51,930,000	\$53,488,000
Motor Carrier Credentialing	\$5,889,314	\$6,237,000	\$6,105,000	\$6,173,000
Miscellaneous Revenue	\$2,917,541	\$3,744,000	\$2,928,000	\$3,071,000
Total Fund 0001 Revenue	\$105,846,913	\$108,997,000	\$113,826,000	\$116,893,000
State Highway Fund 0006				
Motor Vehicle Certificates of Title	\$7,932,000	\$7,566,000	\$8,258,000	\$8,423,000
Motor Vehicle Registration	\$1,457,312,903	\$1,536,800,000	\$1,685,128,000	\$1,727,256,000
Motor Carrier - Oversize/Overweight	\$112,763,886	\$97,002,000	\$125,119,000	\$127,557,000
Total Fund 0006 Revenue	\$1,578,008,790	\$1,641,368,000	\$1,818,505,000	\$1,863,236,000
Texas Department of Motor Vehicles Fund 0010				
Motor Vehicle Certificates of Title	\$36,964,892	\$31,369,000	\$41,934,000	\$42,563,000
Motor Vehicle Registration	\$35,044,378	\$37,772,000	\$35,080,000	\$35,959,000
Motor Carrier - Oversize/Overweight	\$14,711,609	\$13,872,000	\$16,008,000	\$16,488,000
Business Dealer Licenses	\$7,390,831	\$8,219,000	\$7,994,000	\$8,154,000
Miscellaneous Revenue	\$9,442,352	\$7,991,000	\$7,757,000	\$7,958,000
Processing and Handling Fee	\$52,707,612	\$55,209,000	\$55,730,000	\$56,866,000
Total Fund 0010 Revenue	\$156,261,675	\$154,432,000	\$164,503,000	\$167,988,000
TOTAL REVENUE – ALL FUNDS	\$1,840,117,378	\$1,904,797,000	\$2,096,834,000	\$2,148,117,000

**Source: Texas Comptroller of Public Accounts, Biennial Revenue Estimate, 2022-23 Biennium, 87th Texas Legislature, January 2021 and the department's Legislative Appropriations Request dated September 25, 2020.*

Motor Vehicle Crime Prevention Authority Revenues

The Motor Vehicle Crime Prevention Authority (MVCPA) division of TxDMV is the only core function that is not funded through the TxDMV Fund. All funding for MVCPA comes from General Revenue (GR.) MVCPA is governed by a five-member, gubernatorial-appointed board.

MVCPA is required to collect a \$4 fee on all motor vehicles covered by any form of motor vehicle insurance sold in Texas. These funds are collected and deposited to GR to provide funding for MVCPA's operations as well as other areas. The funds collected are statutorily directed as follows:

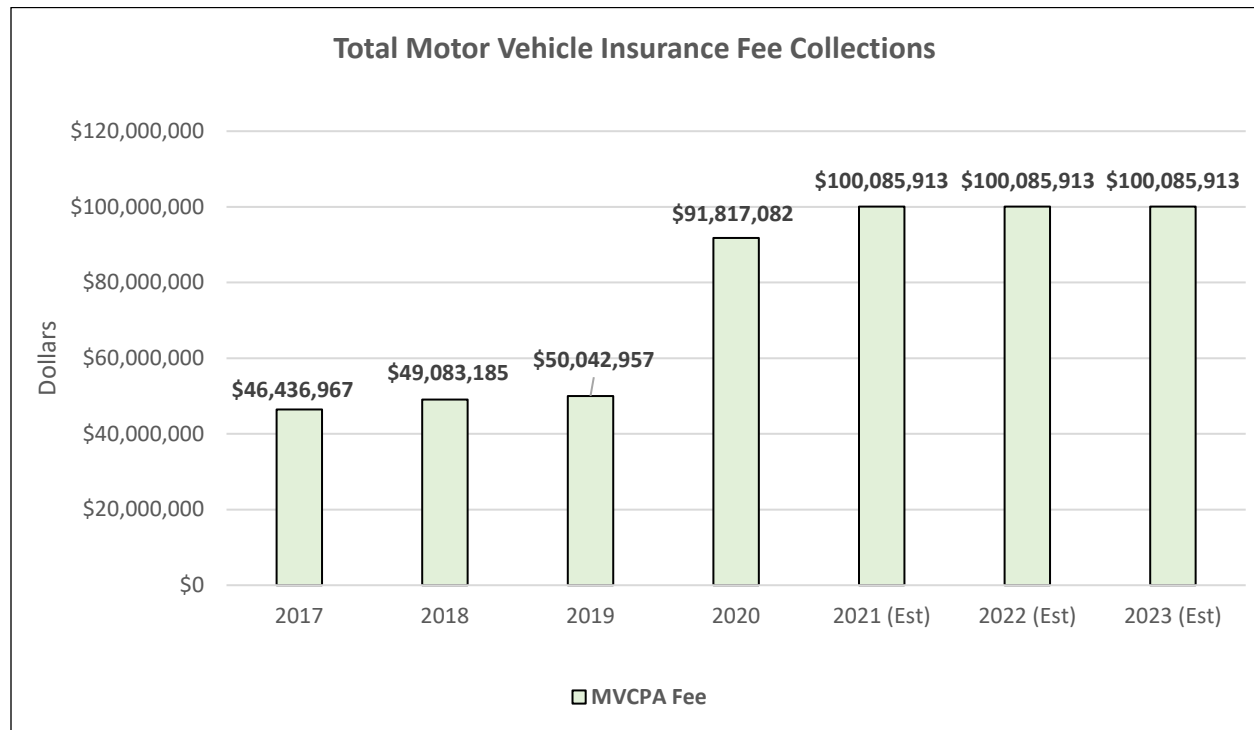
- 20% appropriated to the authority for the use of MVCPA duties;
- 20% to the credit of the general revenue fund, to be used only for criminal justice purposes; and
- 60% deposited to the credit of the designated trauma facility and emergency medical services account.

MVCPA is required to, among other items:

- Collect a \$4 fee for every motor vehicle insured in Texas;
- Issue grants to law enforcement agencies and other statutorily designated groups to combat motor vehicle crime;
- Develop, collect and monitor performance data on arrests, recovery of vehicles and cases cleared and other performance measures for motor vehicle crime;
- Report annually to the Texas Legislature fiscal and program data;
- Develop a biennial statewide Plan of Operation to combat motor vehicle crime; and
- Examine and make determinations for refunds to insurers that overpay the \$4 per vehicle fee.

The MVCPA issues grants to foster a state-wide cooperative network of law enforcement groups, prosecutors, insurance industry representatives, local tax assessor-collectors and concerned citizens to combat vehicle crime through enforcement, prevention, public information and education initiatives. The MVCPA grants also provide border and port security operations to prevent stolen vehicles from going into Mexico.

The following charts illustrates the seven-year trend in total revenues collected from the motor vehicle insurance fee and the percent allocation of the revenues to the statutorily designated programs, as previously described. Total revenues for FY 2022-2023 biennium are estimated to be approximately \$200 million. TxDMV relies on the Comptroller of Public Accounts to provide information on the total amount of revenue collected.



MVCPA Fees Collections and Appropriations							
<i>Fiscal Year</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021*</i>	<i>2022*</i>	<i>2023*</i>
MVCPA Fees Collections	\$46,436,967	\$49,083,185	\$50,042,957	\$91,817,082	\$100,085,913	\$100,085,913	\$100,085,913
Appropriated to MVCPA	\$14,920,849	\$14,920,849	\$12,835,851	\$12,835,851	\$12,835,851	\$14,979,605	\$14,979,605
Remaining Amount to General Revenue	\$31,516,118	\$34,162,336	\$37,207,106	\$78,981,231	\$87,250,062	\$85,106,308	\$85,106,308

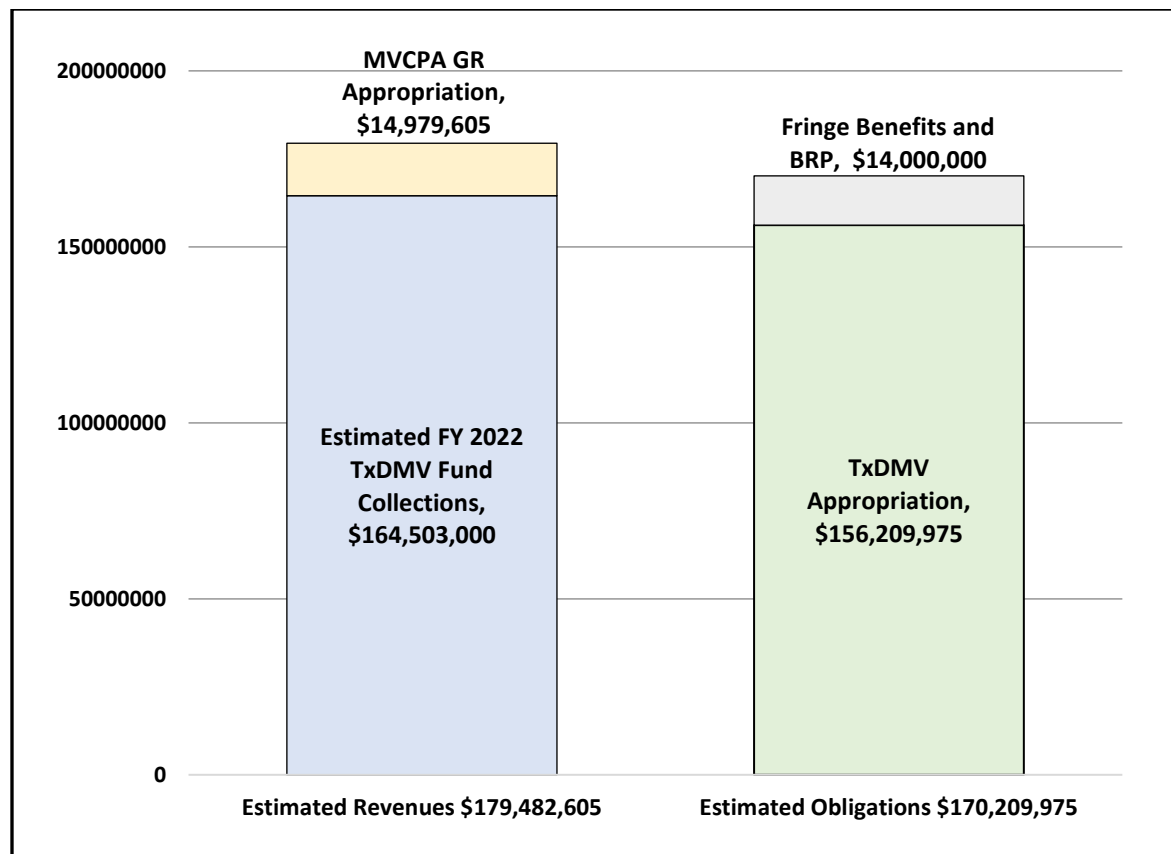
**Note - FY 2021 through FY 2023 fees are estimated.*

Part IV – Revenues vs. Obligations

FY 2022 TxDMV Estimated Revenues vs. Obligations

Total estimated revenues of approximately \$179.5 million consists of \$164.5 million in estimated FY 2022 TxDMV Fund collections and \$15.0 million in GR appropriations for MVCPA.

The chart below reflects that the estimated available funds are sufficient to cover TxDMV obligations of \$170.2 million for FY 2022. Obligations include all preliminary budget amounts for all expenditures in FY 2022.



Part V: Contracts

Fiscal Year 2022 Contract Summary

The department executes contracts that are statutorily required and executes contracts that are not required by law but enable it to perform its duties and operations. The Board's approval of the operating budget constitutes approval of any contracts listed in the operating budget. Procedures for Board contract procedures may be found in, of this document.

The department will execute approximately 233 new contracts and renewals of existing contracts that are not statutorily required but assist the agency in performing its operations.

The department anticipates the renewal of 19 statutorily required contracts in Fiscal Year 2022.

The Fiscal Year 2022 budget currently includes:

- 19 contracts of more than \$200,000
- 7 contracts between \$100,000-\$200,000
- 196 contracts of less than \$100,000
- 11 IT Staff Augmentation contracts
- 19 statutorily required contracts

Grand Total of 252 contracts

The following pages detail both statutorily required and optional contracts by division, vendor, purpose, contract period, and amount.

Note: The contracts listed on the following pages are subject to change based on the final terms and conditions negotiated.

Contracts Requiring Board Approval

The contracts listed below require Board approval for the award and/or renewal and proposed contract amounts for Fiscal Year 2022. Additional procurements may be conducted during the fiscal year and will be presented to the Board individually upon occurrence.

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
MCD	SOUTHWEST RESEARCH INSTITUTE	CVIEW – Maintenance Support	2/01/2020	8/31/2022	\$ 600,000	\$ 2,400,000
VTR	AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATION	Information systems title check through AAMVA	10/1/2018	8/31/2022	\$ 416,083	\$ 2,162,481

Statutorily Required Contracts

Contracts required by statute include the State Office of Administrative Hearings (contested cases), the State Office of Risk Management, Workers Compensation, vehicle liability insurance and property insurance and the Texas Department of Criminal Justice (manufacturing of license plates, registration stickers and placards, etc.). Line items below represent anticipated statutorily required contracts for the upcoming fiscal year.

Term Contracts are contracts negotiated by the Texas Comptroller of Public Accounts (CPA) for use by all state agencies. These competitively bid contracts include goods and services such as photocopier leases, automated mailing services, printing services, consumable office supplies and Point of Sale registration paper. State agencies have little or no negotiation authority for these contracts.

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
IT	TEXAS DEPARTMENT OF INFORMATION RESOURCES	Data Center Services	9/1/2020	8/31/2021	\$ 10,148,129	\$ 10,148,129
MVD	STATE OFFICE OF ADMINISTRATIVE HEARINGS	SOAH Contract	9/1/2019	8/31/2022	\$ 164,438	\$ 328,875
VTR	TAYLOR CORPORATION	Vehicle Registration Decals	9/1/2020	8/31/2022	\$ 4,118,782	\$ 28,134,881
VTR	WORKQUEST	Specialty Plates Mailing	8/26/2014	8/31/2022	\$ 1,031,903	\$ 4,779,493
FAS	TEXAS DEPARTMENT OF CRIMINAL JUSTICE	License Plates Manufacture	9/1/2019	8/31/2022	\$ 16,627,750	\$ 34,460,482
FAS	OPEN TEXT	Digital Imaging	9/1/2020	8/31/2022	\$ 3,637,259	\$ 20,757,457
FAS	WORKQUEST	Freight/Small Package Shipping	9/1/2020	8/31/2022	\$ 716,000	\$ 716,000
FAS	WORKQUEST	Janitorial Services - Abilene RSC	9/1/2020	8/31/2022	\$ 27,694	\$ 27,694
FAS	WORKQUEST	Janitorial Services - Amarillo RSC	9/1/2020	8/31/2022	\$ 21,331	\$ 21,331

Statutorily Required Contracts *(continued)*

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
FAS	WORKQUEST	Janitorial Services - Austin RSC	9/1/2020	8/31/2022	\$ 27,553	\$ 27,553
FAS	WORKQUEST	Janitorial Services - Beaumont RSC	9/1/2020	8/31/2022	\$ 37,842	\$ 37,842
FAS	WORKQUEST	Janitorial Services - Fort Worth RSC	9/1/2020	8/31/2022	\$ 61,844	\$ 61,844
FAS	WORKQUEST	Janitorial Services - Houston RSC	9/1/2020	8/31/2022	\$ 118,180	\$ 118,180
FAS	WORKQUEST	Janitorial Services - Longview RSC	9/1/2020	8/31/2022	\$ 30,561	\$ 30,561
FAS	WORKQUEST	Janitorial Services - Lubbock RSC	9/1/2020	8/31/2022	\$ 22,314	\$ 22,314
FAS	WORKQUEST	Janitorial Services - Odessa RSC	9/1/2020	8/31/2022	\$ 15,044	\$ 15,044
FAS	WORKQUEST	Janitorial Services - Pharr RSC	9/1/2020	8/31/2022	\$ 16,583	\$ 16,583
FAS	WORKQUEST	Janitorial Services – Wichita Falls RSC	9/1/2020	8/31/2022	\$ 31,693	\$ 31,693
FAS	WORKQUEST	Janitorial Services – Camp Hubbard	9/1/2020	8/31/2022	\$ 533,202	\$ 1,689,382

Contracts Greater than \$200K

The following contracts have a cumulative cost value of more than \$200,000. In accordance with the Board Resolution Adopting Contract Approval Procedures, these contracts are excluded from Board approval procedures. These contracts include routine operations, and procurements from the Texas Department of Information Resources (DIR) and from the Comptroller's State Procurement Division (SPD.)

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
FAS	ENVIRO-MASTER SERVICES	Preventive Disinfectant fogging (HQ-RSC)	9/01/2020	8/31/2022	\$ 672,308	\$ 672,308
IT	CDW GOVERNMENT	Cisco Smartnet	11/1/2020	8/31/2022	\$ 473,303	\$ 473,303
IT	CARASOFT	eLicensing	8/31/2022	8/31/2022	\$ 1,190,000	\$ 1,190,000
MCD	PROMILES	Annual Support and Hosting Fees	9/1/2016	8/31/2022	\$ 603,180	\$ 2,412,720
VTR	RR DONNELLY	Title & Registration Forms	3/6/2015	8/31/2022	\$ 456,115	\$ 3,387,005
VTR	PITNEY BOWES	Postage	9/1/2016	8/31/2022	\$ 11,800,000	\$ 63,362,586
FAS	WALDEN SECURITY	Security Guard Services - Austin	9/01/2020	8/31/2022	\$ 447,235	\$ 670,852
FAS	ENVIRO-MASTER SERVICES	Preventive Disinfectant fogging-(HQ-RSC)	9/01/2020	8/31/2022	\$ 672,308	\$ 672,308
FAS	RAGSDALE-BROOKWOOD VENTURE	Lease 20399 Houston	11/1/2016	8/31/2022	\$ 284,678	\$ 2,448,332
FAS	TEXAS DEPARTMENT OF TRANSPORTATION	TxDMV-TxDOT Interagency Contract	9/1/2019	8/31/2022	\$ 1,000,000	\$ 2,000,000
FAS	TBD	Camp Hubbard Security System Enhancements Building 2, 4 and 6.	9/1/2021	8/31/2022	\$ 462,000	\$ 462,000
FAS	TBD	Camp Hubbard 6 Data Center	9/1/2021	8/31/2022	\$ 1,250,000	\$ 1,250,000

Contracts Greater than \$200K *(continued)*

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
FAS	TBD	Elevator Inspections, Maintenance and Repair Contract	9/1/2021	8/31/2022	\$ 931,970	\$ 931,970
FAS	TBD	CH-7 Chiller/Cooling Tower Transition	9/1/2021	8/31/2022	\$ 468,000	\$ 468,000
FAS	JOHNSON CONTROLS	JCI Controls	9/1/2021	8/31/2022	\$ 225,000	\$ 225,000
ITD	TBD	Web Lien Application	1/1/2022	8/31/2023	\$ 3,000,000	\$ 3,000,000
ITD	TBD	MCCS Rewrite	1/1/2022	8/31/2023	\$ 4,239,000	\$ 4,239,000

Contracts Greater than \$100K but less than \$200K

Contracts, including Statewide Contracts that have an annual cost value from \$100,000 to \$200,000 (Commodities over \$50,000 and Services over \$100,000 must be reviewed by the Texas Comptroller of Public Accounts; Government Code 2156.121) may be delegated to the agency by the Texas Comptroller of Public Accounts. If delegated, these are executed at the executive director's discretion within budget guidelines and in accordance with established procurement contract laws, rules, regulations and policies of oversight agencies.

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
IT	AT&T MOBILITY	Agencywide Cell Service	8/18/2017	8/31/2022	\$ 113,530	\$ 466,401
FAS	PURPLE TREE LLC	Lease 7959 Carrollton	3/17/2020	8/31/2022	\$ 126,956	\$ 624,859
FAS	TBD	Fire Suppression System	9/1/2021	8/31/2022	\$ 192,000	\$ 192,000
FAS	TBD	Dumpster and Waste Management	9/1/2021	8/31/2022	\$ 114,000	\$ 114,000
FAS	TBD	Camp Hubbard 1 & 6 Boiler	9/1/2021	8/31/2022	\$ 198,000	\$ 198,000
IT	SHI GOVERNMENT SOLUTIONS	CAST Software Support & Professional Services & Software License Renewals	10/16/2020	8/31/2022	\$ 133,912	\$ 133,912
IT	SHI GOVERNMENT SOLUTIONS	Testing tools - CA Technologies	11/2/2020	8/31/2022	\$ 190,681	\$ 190,681
IT	DELL	Innowake Maintenance Renewal	12/15/2020	8/31/2022	\$ 176,246	\$ 176,246
IT	VOICE PRODUCTS INC	Nice System Maintenance and NIM and WFM	9/1/2021	8/31/2022	\$ 189,144	\$ 189,144
IT	INSIGHT PUBLIC SECTOR INC	Insight	5/7/2021	8/31/2022	\$ 119,788	\$ 119,788
HRD	WORKERS ASSISTANCE PROGRAM INC	Employee Assistance Program	1/1/2019	8/31/2021	\$ 9,139	\$ 76,621

Contracts Less than \$100K

Contracts, including Statewide Contracts under \$100,000 annually for services and \$50,000 for commodities are delegated to state agencies by the Texas Comptroller of Public Accounts (Government Code 2155.132). These include but are not limited to competitively bid contracts for goods and services that are executed at the executive director's discretion within budget guidelines and in accordance with established procurement contract laws, rules, regulations and policies of oversight agencies. These are provided for informational purposes.

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
HRD	FIRST CHECK	Employee Background Screening	6/30/2020	6/30/2022	\$ 6,695	\$ 13,390
HRD	LMS 365	Learning Module	6/1/2021	5/31/2022	\$ 36,930	\$ 36,930
MULTIPLE	ON THE RECORD REPORTING & TRANSCRIPTION	Meeting Transcription Services	9/1/2020	8/31/2022	\$ 14,000	\$ 32,000
IAD	WORKQUEST	Contracted Auditor - Temporary Position	10/5/2020	8/31/2022	\$ 84,922	\$ 169,811
IT	ANCHOR COMPUTER INC	NCOA Web Portal Services	6/9/2021	6/8/2022	\$ 30,000	\$ 30,000
IT	TEXAS DEPARTMENT OF INFORMATION RESOURCES	Interagency Cooperation Contract related to collocation services	9/1/2020	8/31/2021	\$ 12,000	\$ 12,000
IT	SOFTWARE ONE	Windows Server DataCenter, SQL Server	9/1/2020	8/31/2021	\$ 13,811	\$ 13,811
IT	SMARTY STREETS LLC	Smarty Streets	7/1/2020	8/21/2021	\$ 10,000	\$ 10,000
IT	DELL	Adobe Licenses	8/12/2019	8/19/2021	\$ 50,402	\$ 50,402
IT	WORKQUEST	Document Destruction	9/1/2020	8/31/2021	\$ 144	\$ 144

Contracts Less than \$100K (continued)

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
IT	CONVERGEONE INC	Converge One	2/12/2020	8/31/2021	\$ 25,000	\$ 25,000
IT	ARTICULATE GLOBAL INC	Articulate Global	3/7/2017	3/7/2022	\$ 11,106	\$ 11,106
IT	CARAHSOFT	DocuSign Maintenance and License Renewals	4/30/2021	5/29/2022	\$ 23,592	\$ 23,592
IT	ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE	ArcGIS	7/1/2021	6/30/2022	\$ 11,556	\$ 11,556
IT	CDW GOVERNMENT	Ping Plotters	9/1/2020	8/31/2022	\$ 3,463	\$ 3,463
IT	OPEN TEXT INC C/O JP MORGAN	RightFax	9/1/2020	8/31/2022	\$ 4,576	\$ 4,576
IT	SHI GOVERNMENT SOLUTIONS	Solar Winds	8/31/2021	8/30/2022	\$ 34,897	\$ 34,897
IT	INNOVATION NETWORK TECHNOLOGIES	Fortiweb Cloud	9/1/2021	8/31/2022	\$ 16,179	\$ 16,179
IT	SHI GOVERNMENT SOLUTIONS	Dmarc SaaS	9/1/2020	8/31/2022	\$ 9,860	\$ 9,860
IT	JOURNEYED.COM INC	Snagit and Camtasia Licenses	9/1/2020	8/31/2022	\$ 4,932	\$ 4,932
IT	VERIZON WIRELESS	Cellco Partnership - RSC Broadband	9/1/2020	8/31/2022	\$ 7,894	\$ 7,894
IT	SHI GOVERNMENT SOLUTIONS	Salty Cloud Renew from Cybersecurity	9/1/2020	8/31/2022	\$ 43,889	\$ 43,889
IT	SHI GOVERNMENT SOLUTIONS	Qualys Vulnerability Scan	8/1/2020	8/31/2022	\$ 43,617	\$ 43,617
IT	SHI GOVERNMENT SOLUTIONS	Embarcadero	10/28/2020	8/31/2022	\$ 3,689	\$ 3,689

Contracts Less than \$100K (continued)

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
IT	SHI GOVERNMENT SOLUTIONS	Embarcadero Maintenance	5/14/2021	8/31/2022	\$ 15,842	\$ 15,842
IT	SHI GOVERNMENT SOLUTIONS	Skybox Renewal	8/9/2020	8/31/2022	\$ 41,310	\$ 41,310
IT	CARAHSOFT	SmartSheet Licenses	12/10/2020	8/31/2022	\$ 9,493	\$ 9,493
IT	SOLID BORDER INC	McAfee Software Support and License Renewals	12/17/2020	8/31/2022	\$ 45,894	\$ 45,894
IT	DELL	VM Ware	12/21/2020	8/31/2022	\$ 19,786	\$ 19,786
IT	SHI GOVERNMENT SOLUTIONS	RemedyForce	10/31/2020	8/31/2022	\$ 85,718	\$ 85,718
IT	PRESIDIO	Intrinsic and Infoblox Software Support	6/29/2020	8/31/2022	\$ 23,361	\$ 23,361
IT	GREAT SOUTH TEXAS CORP DBA	Nimble	4/4/2021	8/31/2022	\$ 6,052	\$ 6,052
IT	SEAMLESS ADVANCED SOLUTIONS LLC	FortiManager/FortiAnalyzer	2/8/2022	8/31/2022	\$ 80,000	\$ 80,000
IT	APPEON INC	Appeon Powerbuilder Cloud Edition Renewal	8/23/2021	8/31/2022	\$ 895	\$ 895
IT	CDW GOVERNMENT	Webex Licenses	5/14/2021	8/31/2022	\$ 26,666	\$ 26,666
IT	SHI GOVERNMENT SOLUTIONS	Digicert Certificates	6/1/2021	8/31/2022	\$ 37,093	\$ 37,093
IT	CISCO	Cloud Cherry	9/1/2021	8/31/2022	\$ 83,820	\$ 83,820
IT	TEXAS DEPARTMENT OF INFORMATION RESOURCES	Texas.Gov	9/1/2020	8/31/2022	\$ 29,308	\$ 29,308

Contracts Less than \$100K (continued)

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
IT	SHI GOVERNMENT SOLUTIONS	GoTo Webinar Renewal	4/29/2021	8/31/2022	\$ 10,407	\$ 10,407
GSC	CARASOFT TECHNOLOGY CORPORATION	Carahsoft - Digital Communication Management (DCM) Subscription	11/11/2019	8/31/2022	\$ 28,862	\$ 243,569
GSC	TEXAS LEGISLATIVE SERVICE	Telicon 2021-2022 On-line Subscription	12/21/2020	8/31/2022	\$ 8,905	\$ 8,905
GSC	SITEIMPROVE, INC	Siteimprove Web Tool - Software-as-a-service subscription agreement	1/15/2021	8/31/2022	\$ 5,100	\$ 5,100
GSC	MACAR INTERNATIONAL LLC	CARMA International Custom Scoop Digital Content Management (DCM)	2/23/2021	8/31/2022	\$ 2,999	\$ 2,999
MCD	RR DONNELLY & SONS CO	Permit Decals	8/24/2017	8/31/2022	\$ 25,200	\$ 25,200
MCD	PRYOR LEARNING INC	Training	7/1/2022	8/31/2022	\$ 199	\$ 199
MCD	USPS	PO Box 3475	9/1/2020	8/31/2022	\$ 1,390	\$ 1,390
MCD	SECRETARY OF STATE	Notary Renewal	1/28/2021	8/31/2022	\$ 11	\$ 11
MVD	TEXAS DEPARTMENT OF PUBLIC SAFETY	DPS Crime Records - Background Checks	9/1/2019	8/31/2022	\$ 27,000	\$ 27,000
MVD	USPS	PO Box 26487	10/1/2021	8/31/2022	\$ 268	\$ 268
VTR	BILL CLARK PEST CONTROL	Pest Control Beaumont RSC	1/23/2018	8/31/2022	\$ 660	\$ 3,025
VTR	YOUR PEST CONTROL COMPANY INC	Pest Control Ft. Worth RSC	9/1/2020	8/31/2022	\$ 380	\$ 760
VTR	1ST DEFENSE TERMITE & PEST CONTROL	Pest Control Odessa RSC	9/1/2020	8/31/2022	\$ 540	\$ 1,080

Contracts Less than \$100K (continued)

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
VTR	NEMO-Q LP	Support costs for RSC queuing systems	8/29/2018	8/31/2022	\$ 31,103	\$ 311,488
VTR	DRIVERS LICENSE GUIDE COMPANY	Driver License Guides	1/27/2020	8/31/2022	\$ 1,485	\$ 1,485
VTR	ARTICULATE GLOBAL INC.	eLearning	7/19/2016	8/31/2022	\$ 37,188	\$ 172,540
FAS	WORKQUEST	PEST CONTROL SERVICES	9/1/2019	8/31/2022	\$ 15,660	\$ 31,320
FAS	ADVANCED LOCK SOLUTIONS INC	Services to include keys for vehicles	9/1/2019	8/31/2022	\$ 2,200	\$ 4,350
FAS	OMNIMETRIX LLC	Generator Cellular Monitoring	9/28/2017	8/31/2022	\$ 349	\$ 349
FAS	SAFE2DRIVE	On-line, On-Demand Defensive Driving	2/4/2021	8/31/2022	\$ 2,780	\$ 14,111
FAS	DUN&BRADSTREET	On-Line Subscription - DNBi for Risk Management	9/1/2020	8/31/2022	\$ 4,061	\$ 4,061
FAS	ALLIED WASTE SERVICES	Garbage/trash removal service	10/10/2016	8/31/2022	\$ 866	\$ 3,466
FAS	CORPUS CHRISTI REGIONAL TRANSPORTATION	Lease 303-7-20538 Corpus Christi	2/1/2017	8/31/2022	\$ 45,324	\$ 493,859
FAS	TONY MARTIN TRUSTEE	Lease Waco Region	9/1/2020	8/31/2022	\$ 45,360	\$ 45,360
FAS	RIVERBEND COMPLEX LLC	Lease 10462 Fort Worth	10/15/2010	8/31/2022	\$ 91,106	\$ 883,013
FAS	HERRERO & COMPANY LLC	Lease 20537 San Antonio	5/1/2017	8/31/2022	\$ 81,825	\$ 900,072
FAS	BURNHAM PROPERTIES LTD	Lease 10263 El Paso	7/3/2014	8/31/2022	\$ 56,895	\$ 528,963

Contracts Less than \$100K (continued)

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
FAS	4015 LIMITED PARTNERSHIP	CPA Warehouse lease #6728- Austin	11/1/1990	8/31/2022	\$ 20,337	\$ 128,866
FAS	REPUBLIC SERVICES	FTW Garbage/Dumpster Service	11/1/2020	8/31/2022	\$ 892	\$ 892
FAS	WORKQUEST	Secure Document Destruction	8/29/2019	8/31/2022	\$ 5,500	\$ 12,871
FAS	WORKQUEST	Landscaping Service	9/1/2019	8/31/2022	\$ 30,134	\$ 60,267
FAS	WORKQUEST	Pest Control Services	9/1/2019	8/31/2022	\$ 15,560	\$ 31,320
FAS	ADVANCED LOCK	Locksmith Services	9/1/2019	8/31/2022	\$ 2,200	\$ 4,350
FAS	TDINDUSTRIES INC	Plumbing Services	9/1/2020	8/31/2022	\$ 24,000	\$ 24,000
FAS	TDINDUSTRIES INC	Electrical Services (Including: Parking lot lights and Pole replacement)	9/1/2020	8/31/2022	\$ 24,000	\$ 24,000
FAS	STS360, LLC	Security Monitoring and Maintenance	1/7/2021	8/31/2022	\$ 85,000	\$ 85,000
FAS	MAJESTIC SERVICES INC	General Maintenance (Including Glass Repair and Replacement)	1/12/2021	8/31/2022	\$ 24,000	\$ 24,000
FAS	TBD	Parking lot signs, striping, wheel stops and repairs	9/1/2021	8/31/2022	\$ 18,000	\$ 18,000
FAS	TBD	Defibrillators	9/1/2021	8/31/2022	\$ 1,200	\$ 1,200
FAS	TBD	Tree services	9/1/2021	8/31/2022	\$ 18,000	\$ 18,000
FAS	BLUE PRESSURE WASHING LLC	Window Washing	4/14/2021	8/31/2022	\$ 4,123	\$ 8,245

Contracts Less than \$100K (continued)

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
FAS	TBD	Irrigation repair and maintenance	9/1/2021	8/31/2022	\$ 30,000	\$ 30,000
FAS	TBD	Door Controller Contract	9/1/2021	8/31/2022	\$ 31,000	\$ 31,000
FAS	TBD	Fire Marshal Related Needs and Requirements	9/1/2021	8/31/2022	\$ 60,000	\$ 60,000
FAS	AMERICAN WATERCARE	Salt and Water Softener Service	3/19/2021	8/31/2022	\$ 11,290	\$ 11,290
FAS	TBD	Recycling Contract	9/1/2021	8/31/2022	\$ 6,000	\$ 6,000
FAS	TBD	HVAC Filter Replacements	9/1/2021	8/31/2022	\$ 6,000	\$ 6,000
FAS	TBD	Painting contract	9/1/2021	8/31/2022	\$ 30,000	\$ 30,000
FAS	TBD	Carpet Cleaning	9/1/2021	8/31/2022	\$ 30,000	\$ 30,000
FAS	TBD	Generator CH 3 and 6	9/1/2021	8/31/2022	\$ 41,000	\$ 41,000
FAS	TBD	BEST Key and Core Transition	9/1/2021	8/31/2022	\$ 95,000	\$ 95,000
FAS	TBD	Charging Stations	9/1/2021	8/31/2022	\$ 7,000	\$ 7,000
FAS	TBD	Transition of Cafeteria Relationship	9/1/2021	8/31/2022	\$ 10,000	\$ 10,000
FAS	TBD	Mechanical water treatment	9/1/2021	8/31/2022	\$ 75,000	\$ 75,000
GSC	LISTO TRANSLATING SERVICES & MORE LLC	Translation Services - Text English to Spanish	9/7/2019	8/31/2022	\$ 1,100	\$ 2,300

Contracts Less than \$100K (continued)

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
GSC	RUNNING BEAR PRODUCTION HOUSE	TxDMV Video Production Services	1/7/2020	8/31/2022	\$ 23,660	\$ 48,390
GSC	INNOVATION EVENT MANAGEMENT, LP	AAMVA Video Production Services	8/25/2020	8/31/2022	\$ 12,318	\$ 12,318
GSC	CHARTER COMMUNICATIONS OPERATING LLC	Broadcast TV Surcharge	1/16/2020	8/31/2022	\$ 8,000	\$ 8,000
MVCPA	TEXAS COMPTROLLER OF PUBLIC ACCOUNTS	IAC between MVCPA and Texas Comptroller - reporting and develop fee forms	9/1/2019	8/31/2022	\$ 10,000	\$ 20,000
OGC	TEXAS STATE LIBRARY	Document Storage	9/1/2020	8/31/2022	\$ 5,000	\$ 9,000
MULTIPLE	LEXISNEXIS RISK SOLUTIONS	Accurint	9/1/2020	8/31/2022	\$ 27,393	\$ 27,393
MULTIPLE	THOMSON REUTERS-WESTLAW PUBLISHING	Thomson Reuters' keycite, print, legal reference materials	8/14/2020	8/31/2023	\$ 45,016	\$ 89,958
ENF	ALLDATA	Repair Series-OL2 All Makes Coverage	1/26/2021	2/28/2022	\$ 1,500	\$ 1,500
IT	BLACK BOOK NATIONAL AUTO RESEARCH DIVISION	Web Portal Services	9/1/2020	8/31/2022	\$ 108,000	\$ 108,000
IT	SHI GOVERNMENT SOLUTIONS	Ivanti	8/20/2020	8/31/2022	\$ 55,246	\$ 55,246
IT	SHI GOVERNMENT SOLUTIONS	Microguru Software Subscription	2/1/2021	8/31/2022	\$ 630	\$ 630
IT	DELL	Swagit	1/1/2021	8/31/2022	\$ 1,106	\$ 1,106
IT	HIED INC	Manage Engine AD Self Service	5/1/2021	8/31/2022	\$ 4,528	\$ 4,528

Contracts Less than \$100K *(continued)*

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
IT	DELL	Swagit	5/1/2021	8/31/2022	\$ 19,573	\$ 19,573
MCD	LEXIS NEXIS RISK SOLUTIONS	Lexis Nexis	9/1/2020	8/31/2022	\$ 3,996	\$ 3,996
MCD	LEXIS NEXIS RISK SOLUTIONS	Accurint	9/1/2020	8/31/2022	\$ 900	\$ 900
MCD	DRIVER'S LICENSE GUIDE CO	US ID Manual	1/1/2020	8/31/2022	\$ 248	\$ 248
MULTIPLE	MEMBERSHIPS	Memberships in Professional Organizations	9/1/2020	8/31/2022	\$ 72,000	\$ 72,000
MULTIPLE	SURVEYMONKEYCOM LLC	Survey Monkey Enterprise Subscription	1/2/2021	8/31/2022	\$ 11,249	\$ 23,320
MULTIPLE	TOSHIBA AMERICA BUSINESS SOLUTIONS	Copier Leases	8/7/2017	8/31/2022	\$ 163,379	\$ 465,758

IT Staff Augmentation Contracts

Generally, contracts over \$200,000 must be reviewed and approved by the TxDMV Board; however, the TxDMV Board resolution adopting contract approval procedures excludes from approval those contracts with DIR for routine operations. The following list of Information Technology-related staff augmentation contracts for 2022 are for informational purposes only.

Note that contract amounts are subject to change based on agency needs and the final terms and conditions negotiated.

Division	Vendor	Purpose	Contract Award Date	Contract End Date	FY 2022 Amount	Total Lifetime Contract Amount Through FY 2022
IT	TBD	MCCS Contractor	9/1/2021	8/31/2022	\$ 190,000	\$ 190,000
IT	NF CONSULTING	Vivek Cheruvathoor	9/1/2021	8/31/2022	\$ 300,019	\$ 300,019
IT	NIPUN SYSTEMS INC	Ravi Gandla	9/1/2021	8/31/2022	\$ 217,360	\$ 217,360
IT	NF CONSULTING	Kathy Harrell	9/1/2021	8/31/2022	\$ 300,019	\$ 300,019
IT	BANSAR TECHNOLOGIES INC.	Manoj Jadala	9/1/2021	8/31/2022	\$ 217,360	\$ 217,360
IT	NIPUN SYSTEMS INC	Linga Kotina	9/1/2021	8/31/2022	\$ 217,360	\$ 217,360
IT	NF CONSULTING	Kavitha Krishnaswamy	9/1/2021	8/31/2022	\$ 217,360	\$ 217,360
IT	NF CONSULTING	Vinay Krottapalli	9/1/2021	8/31/2022	\$ 217,360	\$ 217,360
IT	SISTEMA TECHNOLOGIES INC	Bhargava Nalagala	9/1/2021	8/31/2022	\$ 217,360	\$ 217,360
IT	CAPITOL SYSTEMS INC	Vishnu Patha	9/1/2021	8/31/2022	\$ 217,360	\$ 217,360
IT	NF CONSULTING	Ashok Tulsojirao	9/1/2021	8/31/2022	\$ 217,360	\$ 217,360

BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

CONTRACT APPROVAL PROCEDURES

Revised May 2, 2019

The Board of the Texas Department of Motor Vehicles (Board) finds it necessary to adopt procedures relating to contracts executed on behalf of the Texas Department of Motor Vehicles (department). The Executive Director (or designee) has the authority to sign and/or approve contracts on behalf of the department without Board approval, to the extent this contract approval procedures does not require prior Board approval and Board approval is not required by law. The Board authorizes the Executive Director to adopt separate internal procedures to assist with the implementation of this contract approval procedures.

Procurement Process:

The department may enter into the procurement process to acquire goods and/or services without consultation or prior Board approval provided that the department complies with the General Contract Approval procedures below.

General Contract Approval:

Department contracts must be submitted to the Board by the Executive Director (or designee) for review and approval prior to execution and/or award if:

- the contract or contract renewal exceeds \$200,000.
- a change order, individually or in combination with other change orders (other than the exercise of available renewal options), increases the original contract by twenty-five percent or more, as long as the dollar amount of the change order is \$50,000 or more.
- any change order, individually or in combination with other change order (other than the exercise of available renewal options), increases the original contract by \$100,000 or more.

At the discretion of the Executive Director (or designee), the department may request the Board consider any contract of any amount.

Exclusions:

The department is not required to obtain approval for any grants awarded to the department or awarded by the department or any contracts which do not obligate the department to pay, such as the contract for the TexasSure program.

The following department contracts are for routine operations and are excluded from the contract approval procedures listed above:

Statewide Procurement Division (SPD) Contracts	Lawn Services
Department of Information Resources (DIR) Contracts	Janitorial Services
Council on Competitive Government (CCG) Contracts	Vehicles
Hardware/Software Maintenance	Leased Copiers
Vehicle Registration Renewal Notices	Copier Maintenance
Vehicle Titles	Trash Disposal
TXMAS Contracts ¹	Interagency/Interlocal Agreements ²
Registration Stickers	Software - Off-the shelf
Equipment Maintenance	Set-Aside Contracts ³
Temporary Staff Services	Postage
Security Services	

Emergency Procurements:

In the event a contract is needed on an emergency basis, the Executive Director (or designee) will contact the Board Chairman or the Finance and Audit Committee for approval to execute such a contract and will brief the full Board at the next regularly scheduled Board meeting.

An emergency procurement is an unforeseeable situation requiring a procurement and the possible execution and/or award of a contract to:

- prevent a hazard to life, health, safety, welfare, or property;
- avoid undue additional costs to the state; or
- avoid undue delay to any department operations.

Budgeting and Reporting:

Even though the routine contracts listed above are excluded from Board review, the Executive Director (or designee) must still ensure that all contracts are within budget guidelines and adhere to all established procurement contract laws, rules, regulations and policies of oversight agencies.

No later than August 31st of each fiscal year, the Chief Financial Officer (or designee) shall submit to the Board an annual report which identifies all agency contracts which are expected to exceed \$200,000 in the next fiscal year. This report shall include, but not be limited to, vendor name, contract purpose, contract amount, and contract duration. Additionally, the Chief Financial Officer (or designee) shall state whether sufficient funds are available in the agency's proposed operating budget for such contracts.

¹ Texas Multiple Award Schedule (TXMAS) contracts are contracts that have been developed from contracts awarded by the federal government or any other governmental entity of any state.

² However, the interagency contract between TxDMV and the Texas Department of Transportation pursuant to House Bill 3097 from the 81st Regular Legislative Session and/or Senate Bill 1420 from the 82nd Regular Legislative Session is excluded from this exclusion. So the department must obtain Board approval for this contract prior to execution of such contract, to the extent the dollar amount triggers the requirement for Board approval.

³ Set-aside contracts are a specific set of contracts for which a competitive procurement is not required, such as contracts for commodities or services that are available from Texas Correctional Industries and the Central Nonprofit Agency under contract with the Texas Workforce Commission (TWC). Currently, TIBH Industries, Inc. is the Central Nonprofit Agency under contract with TWC.

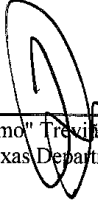
Contract Approval Procedures

Funds for the department's contracts are first considered when the Board reviews and approves the department's operating budget. The Board's approval of the operating budget constitutes approval of any contracts listed in the operating budget. After the Board approves the operating budget, the department's Executive Director (or designee) is authorized to execute such contracts according to established procurement and contract laws, rules, regulations and policies of oversight agencies.

IT IS THEREFORE ORDERED by the Board that these contract approval procedures are adopted. The contract approval procedures dated November 03, 2016, and titled *Board of the Texas Department of Motor Vehicles, Contract Approval Procedures* is rescinded, effective May 2, 2019.

The Department is directed to take necessary steps to implement the actions authorized in this contract approval procedures.

May 2, 2019



Guillermo "Memo" Treviño, Chair
Board of the Texas Department of Motor Vehicles

Part VI: Appendices

Appendix I: Budget Category Details

FY 2022 Recommended Operating Budget by Expenditure Area

The table below outlines the FY 2022 recommended operating budget by expenditure area.

2022 Estimated TxDMV Budget by Expenditure Area

Expenditure Area	FY 2022 Recommended Operating Budget
Salaries and Wages	\$ 45,223,548
Benefit Replacement Pay	\$ 48,269
Other Personnel Costs	\$ 1,176,691
Professional Fees and Services	\$ 22,473,865
Fuels & Lubricants	\$ 81,000
Consumable Supplies	\$ 1,584,876
Utilities	\$ 4,468,755
Travel In-State	\$ 472,013
Travel Out-of-State	\$ 99,175
Rent - Building	\$ 897,040
Rent - Machine and Other	\$ 346,061
Purchased Contract Services	\$ 26,976,350
Advertising & Promotion	\$ 138,000
Computer Equipment Software	\$ 852,738
Fees & Other Charges	\$ 5,167,736
Freight	\$ 839,175
Maintenance & Repair	\$ 4,230,050
Memberships & Training	\$ 289,082
Other Expenses	\$ 6,428,265
Postage	\$ 12,040,498
Reproduction & Printing	\$ 5,508,869
Services	\$ 1,853,015
Grants	\$ 14,437,373
Other Capital	\$ 625,800
Total	\$ 156,258,244

Budget Category Definitions

In Alphabetical Order

Advertising and Promotion – Includes radio/media ads, posters, signage, brochures, flyer production and other promotional items.

Benefit Replacement Pay – Benefit Replacement Pay (BRP) is compensation authorized by the Texas Legislature to offset the loss of state-paid Social Security contributions. See budget terms and definitions for further explanation.

Capital – Expenditures related to the acquisitions, lease-purchase or ancillary cost (including contracts) associated with a capital items/projects over \$100,000.

Computer Equipment – The purchase and replacement of personal information technology equipment and peripherals such as workstations, monitors, keyboards and laptops.

Consumables – Standard consumable costs required to run the day-to-day operations of the department such as paper, pens, pencils, media discs and USB drives, paper clips and staples.

Contract Services – Services outsourced to third party entities for the benefit of the department such as MyPlates and Standard Register.

Exceptional Items – The Legislative Budget Board (LBB) distributes instructions to state agencies and higher-education entities in the preparation of its biennial appropriations request. State agencies determine its baseline request by compiling actual/estimated/budgeted expenditures for the current biennium with specific guidance from the LBB. The baseline computation is approved by the LBB and the Governor's Office and becomes the basis for the next biennium's appropriations. Programs and/or services not included in the baseline request are considered exceptional items and may be submitted for consideration.

Fees and Other Charges – Credit card processing fees, employee health insurance fees, State Office of Risk Management insurance charges and court filing fees.

Freight – Goods transported in bulk by truck, train, ship, or aircraft. For example, the costs to transport license plates to county tax offices.

Fuels and Lubricants – Fleet maintenance and operation costs related to oil changes and refueling fleet vehicles.

Grants – Pass-through funds designated for use by city, county and other state agencies for a specific, contractual requirement.

Maintenance and Repair – Expenditures related to the upkeep of TxDMV facilities, equipment and software used on the department's systems for annual application support such as e-Tags and International Registration Plan (IRP).

Memberships and Training – Fees for training courses and conference registrations for TxDMV staff. Also included are expenditures for memberships for the department's personnel such as Texas

Association of Public Purchasers, American Association of Motor Vehicle Administrators (AAMVA) and the National Board of Motor Vehicle Boards and Commissions.

Other Expenses – Includes office furniture and equipment and miscellaneous non-categorized costs such as employee awards, publication purchases, parts, promotional items and non-capitalized tools. Also included in this category is a portion of the funding for TxDMV Automation and Growth and Enhancement.

Postage – Includes costs of metered mailing for license plates, registration renewal notices and titles; and includes the cost of the rental of TxDMV post office boxes.

Professional Fees – Work, requiring specific expertise, provided by third party professionals holding specific certifications and qualifications.

Rent – Building/Rent – Machine, Other – Costs associated with procurement of project facilities such as office rental, off-site training rooms; and costs associated with the rental of office equipment such as postage meters and copy machines.

Reproduction and Printing – Includes all TxDMV printed materials primarily used in registration renewal notices and titles such as notification inserts, envelopes and title paper.

Salary – Includes staff compensation and interns, longevity pay, health insurance contributions and retirement contributions. Does not include contract workers who are not a part of the organization's normal payroll.

Services – Includes costs associated with services provided to TxDMV through subscription such as National Motor Vehicle Title Information System (NMVTIS) and LexisNexis.

Travel (In-State/Out-of-State) – that which has official state business purpose, attending approved job-related training, working on behalf of or officially representing the department. Includes transportation, meals and accommodations and travel per-diems.

Utilities – Costs associated with providing services at facility locations and/or HQ such as electricity, telephone, water and natural gas.

Appendix II – Capital Project Details

Capital Project Details

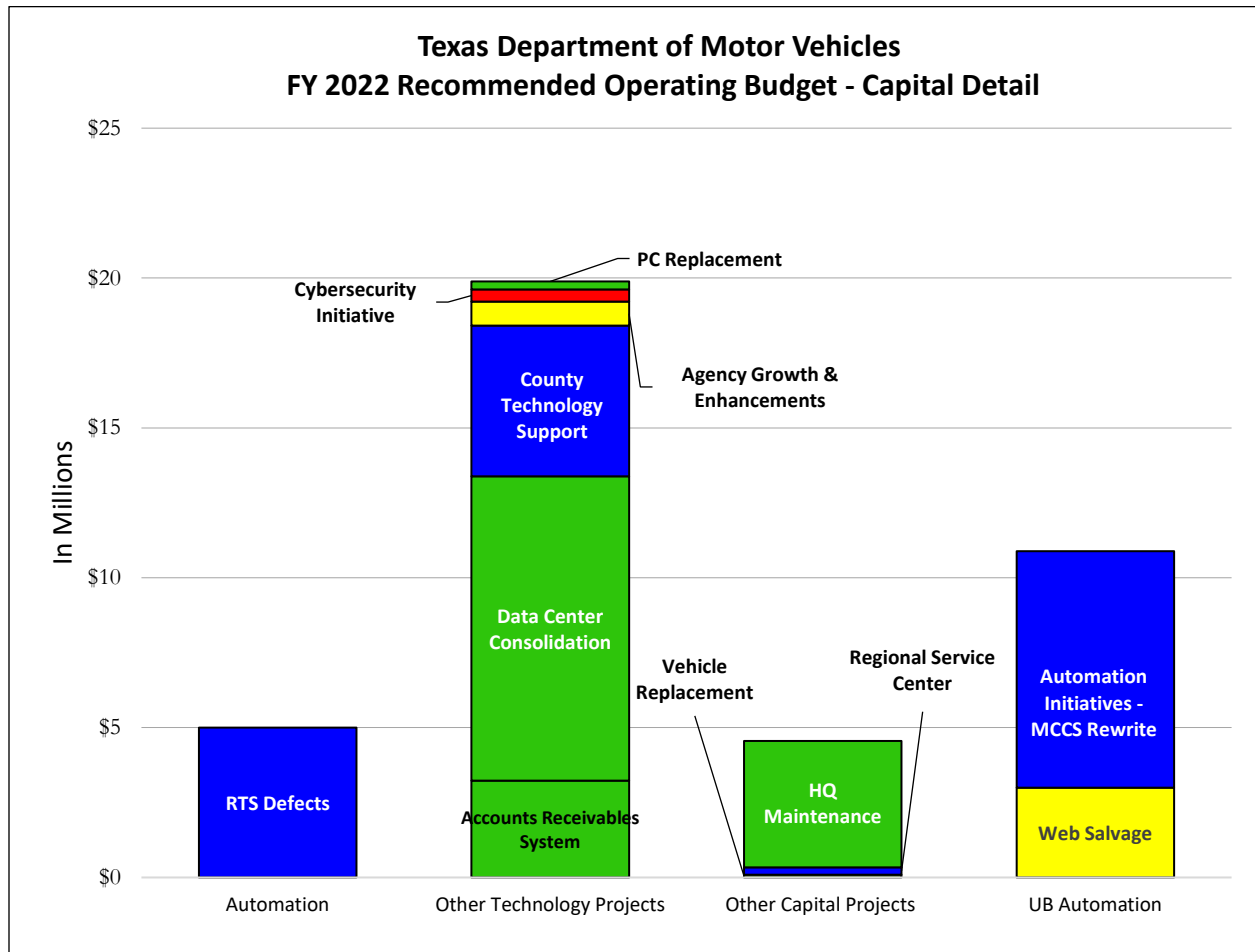
TxDMV FY 2022 Capital Budget

TxDMV Capital Project Appropriations		FY 2022
Fiscal Year 2022 Appropriation	\$	21,946,427
Estimated Unexpended Balance Carry-Forward*	\$	15,428,876
Total Capital Appropriations	\$	37,375,303
TxDMV Automation System ¹		
		Recommended Budget
RTS Defects	\$	5,000,000
Web Salvage ²	\$	3,133,578
MCCS Rewrite ²	\$	5,815,488
Unallocated ²	\$	496,939
TxDMV Automation System Subtotal	\$	14,446,005
Other Technology Projects		
Growth and Enhancements - Agency Operations Support	\$	807,498
Technology Replacement & Upgrades - County Support	\$	5,025,000
PC Replacement	\$	270,800
Data Center Consolidation	\$	10,148,129
Cybersecurity Initiative	\$	400,000
Accounts Receivable System ²	\$	3,234,784
Other Technology Projects Subtotal	\$	19,886,211
Other Capital Projects		
Vehicle Replacement	\$	45,000
Regional Service Center	\$	250,000
HQ Maintenance ²	\$	2,748,087
Other Capital Projects Subtotal	\$	3,043,087
TxDMV Total Capital Budget	\$	37,375,303

¹ The TxDMV Automation project includes project funds for Fiscal Year 2022 which will be funded from budget balances remaining at year end of Fiscal Year 2021.

² Project funded through Unexpended Balance (UB) carry-forward from Fiscal Year 2021. The Estimated Unexpended Balance Carry-Forward amount includes capital projects funded by the Legislature through House Bill 2 for supplemental appropriations. Projects funded by House Bill 2 will start in FY 2021 and carry-forward to FY 2022

The chart below depicts the uses and allocations of the capital budget to help illustrate where funds are being allocated and to which project.



TxDMV Automation Systems Project (\$5.0 million new funding + estimated \$10.9 million unexpended balance carry-forward)

TxDMV is developing information technology assets to improve customer services and access to department programs for the public through the TxDMV Automation System Project. This project encompasses entire departmental operations to take advantage of operational efficiencies. This project also allows data sharing between the department's functions to improve customer service. As the project continues to be refined, the initiatives in FY 2022 that will be addressed through the TxDMV Automation Systems Project are as follows:

Capital Appropriations:

RTS Defects –In June 2013, TxDMV entered into a contract with Deloitte Consulting LLP to refactor the former Registration and Titling System (RTS) by converting the code from a mainframe program to a JAVA web-based system. The system holds nearly 100 million current and archived vehicle registration and titling records. The contract with them consisted of multiple work streams that continued through FY 2018.

The RTS Refactoring project, which began implementation in May 2015, is currently fully deployed to TxDMV headquarters staff, the Regional Service Centers and all 254 counties.

For FY 2022, the Automation Project will continue to focus on identifying and resolving the remaining outstanding issues and defects for statewide roll-out of the RTS System.

Projects Funded from Unexpended Balances:

MCCS Rewrite Project – The Motor Carrier Credentialing System (MCCS) and its companion Electronic Licensing, Insurance and Credentialing (eLINC) system exist so that Texas Motor Carriers can obtain Operating Authority to do business in Texas. MCCS was initially developed in 1994 using now outdated programming tools. The program was rewritten in 2003-04 using ASP.net language, now also dated. The current MCCS was not built to provide online customer self-service and required a phone call from an applicant to establish a TxDMV number account. eLINC was added in 2017 to provide the online application option, but with no other self-service features. Daily maintenance only is provided in house to keep MCCS/eLINC operating with a goal of upgrading to a new system. The system requires constant maintenance and never operates at 100 percent. Not all functions of the system work properly and the customer experience suffers accordingly. The high cost of maintenance and dwindling upkeep resources support the need for this system upgrade before customer security and severe upkeep costs are incurred.

webSALVAGE – this project will modify the department's webSALVAGE application to extend capabilities to insurance companies and salvage dealers the electronic title functionality that exists for licensed Texas dealers. Insurance companies can currently submit salvage and nonrepairable title applications electronically to the department through webSALVAGE; however, they must manually submit title applications to county tax offices for vehicles that are not salvage or nonrepairable. The transactions must either be mailed or delivered in person and require counties to data enter all title application elements. Extending electronic submission of title applications to counties will provide enhanced customer service to insurance companies by providing a single system to submit title applications to the department and counties, while expediting title issuance since counties will no longer have to manually enter data information. In addition, insurance companies would be afforded the capability to issue electronic titles and transfer those titles. webSALVAGE will also be modified to allow salvage dealers to receive electronic titles from insurance companies and submit title applications electronically to counties once the salvage vehicle has been rebuilt. Salvage dealers will also be able to electronically report to the department salvage vehicles purchased with an electronic title they intend to scrap, dismantle or destroy, eliminating the requirement for a paper title and form to be submitted to the department for manual processing. The department will modify webSALVAGE to capture the parts damaged when an insurance company makes electronic application for salvage title and use that information to ensure the vehicle was properly rebuilt when a salvage dealer makes application after rebuilding the salvage vehicle.

Technology Replacement & Upgrades for Counties (\$5.0 million)

This appropriation provides funding to maintain printers, computers, monitors, laptops, cash drawers and other related equipment deployed at county tax assessor-collector offices throughout the state. Additionally, it provides funding to support point-to-point connectivity to the department's Registration and Titling System for all 254 counties and their 508 primary and substation locations.

Data Center Consolidation (\$10.1 million)

This appropriation supports information technology infrastructure assets and functions through statutorily required participation in the State Data Center maintained by the Department of Information Resources. Also included are costs for printing and mailing of registration processed online. This allows TxDMV to fund data center services resulting from continued efforts to build an IT infrastructure and the implementation of the RTS enhancements.

Agency Growth and Enhancements (\$0.8 million)

This line item includes replacement of peripheral devices; telephone system replacements and upgrades; replacement and upgrades of network equipment; the development of a VOIP (Voice over Internet Protocol) infrastructure; and the software licenses for enterprise applications. Additionally, the project includes division-level imaging and document management in the development of workgroup applications.

PC Replacement (\$0.3 million)

The PC Replacement project was contained in Growth & Enhancement in previous years. It has now been separated into a unique capital line item. This project includes replacement of desktop computers, desktop printers and laptops.

Cybersecurity Initiative (\$0.4 million)

This project provides funding for initiatives to improve security for statewide information technology systems. Initiatives include the acquisition of malware and email security tools and the implementation of a managed security service provider through the DIR Data Center Services contract.

Accounts Receivable System (\$3.2 million)

The Accounts Receivable project would automate and centralize the collection and monitoring of receivable accounts currently performed through 18 different applications. The decentralized accounts receivable function and multiple systems have limited TxDMV's ability to properly monitor or conduct accounts receivable activities. Deploying the CAPPS Accounts Receivable module and integrating it with existing TxDMV applications will allow for better tracking of accounts receivable balances and will help insure that revenue collection is maximized.

Other Capital Projects (\$3.0 million)

The fleet will be increased by two vehicles that will support investigation activities in the Enforcement Division (ENF) and Compliance and Investigations Divisions (CID).

Additionally, two medium-sized Regional Service Centers (RSCs) will be updated to standardize the look of TxDMV facilities across the state.

Finally, the TxDMV HQ Maintenance and Repair (carryover from FY 2020-2021) project includes funding for several major projects such as weatherization, roof replacement and internal and external upgrades for the building, including several hard wall office constructions complete with HVAC, electrical and cabling needs.

Appendix III – FY 2020-2021 Accomplishments

FY 2020-2021 Accomplishments

TxDMV is continually examining the way it conducts business to optimize customers' experiences and provide more efficient and effective service delivery. Some of the significant changes to policy, provision of services and stakeholders served implemented during FY 2020-2021 and continuing through FY 2022-2023 are highlighted below.

- Creation of two, new positions within TxDMV Organizational Structure – TxDMV determined that to increase efficiencies and ultimately better serve our customers and stakeholders, a new deputy executive director and an ombudsman should be added to the department's organizational structure. The Executive Director had 13 direct reports, which was significantly more than all other Executive Directors at other mid-sized and large state agencies. The average number of direct reports was seven for the 12 agencies closest in size to TxDMV and none of the twelve executive directors at those agencies had more than ten direct reports. The work group proposed adding a second deputy executive director position reporting directly to the Executive Director. One of the main goals of adding this second deputy executive director was to reduce the number of direct reports to the Executive Director which would allow the Executive Director to be more strategic and focus more on stakeholder's needs and the TxDMV Board. The new deputy executive director was selected and began in June 2020. Another recommendation of the organization workgroup was to create a new ombudsman position; this position would also serve as the department's ethics officer and civil rights officer. The intent of this position is to make sure that any ethics, civil rights and employee complaints has a direct path to the Executive Director. The ombudsman was selected and began on November 1, 2020.
- Digital License Plates – as a provision of the department's Sunset bill, TxDMV was required to offer digital plates for certain vehicles. In June 2020, the TxDMV Board adopted rules regarding the digital license plate program and subsequently the department issued a Request for Proposal (RFP) to solicit one or more vendors for the issuance of digital license plates. A contract was awarded in December 2020. Work is currently underway to complete the required programmatic updates with a public availability date in FY 2021. In addition, the department will employ two employees within the Vehicle Titles and Registration Division to monitor and manage the contract(s).
- Assembled and Off-Highway Vehicles – a new category of vehicles called "assembled vehicles" are allowed to be titled and registered. Off-highway vehicles and golf carts must now have a license plate if operated on roads as allowed by law. Also, purchasers must pay the Texas state use tax for off-highway vehicles purchased out-of-state prior to being titled.
- Alternative Fuel Vehicles - the Sunset bill also required the department to organize a study with four other agencies on the impact to the state of alternatively fueled vehicles including options to levy fees on such vehicles. The report was issued on December 1, 2020.
- Changing the name of the Automobile Burglary and Theft Prevention Authority (ABTPA) to the Motor Vehicle Crime Prevention Authority (MVCPA) – Beginning September 1, 2020 the name of the former ABTPA program was changed to MVCPA and expanded the program to fund efforts to stop motor vehicle fraud. The fee levied on motor vehicle insurance was increased to \$4 with 60% going to emergency and trauma centers and 20% for MVCPA purposes.

- Changes to Salvage Dealer Licensing – two, major changes resulting from enacted legislation in FY 2019 affected salvage licenses/licensing during the FY 2020-2021 biennium. The first change included ending salvage vehicle dealer license endorsements and salvage vehicle agent licensing. The second change allowed for a licensed independent motor vehicle dealer to perform salvage vehicle dealer work without a salvage vehicle dealer license. This change has resulted in a decline in the number of salvage vehicle dealer licenses issued and the department anticipates that the total number of licenses issued will be lower in the future than in past years.
- Creation of advisory committees to assist the department– the department has established advisory committees in line with the Sunset bill and as part of the department’s ongoing goals of stakeholder and consumer inclusivity and public transparency. The department adopted rules governing advisory committees to standardize committee structure and operation. The advisory committees provide expertise for rulemaking and other issues and were established for five key areas: Consumer Protection Advisory Committee, Customer Service Advisory Committee, Motor Carrier Regulation Advisory Committee, Motor Vehicle Industry Regulation Advisory Committee and the Vehicle Titles and Registration Advisory Committee. The Vehicle Title and Registration Advisory Committee met twice in late 2019 and made recommendations integral to recent rulemaking, including the recently adopted digital license plate rules. The Consumer Protection Advisory Committee has met eight times since in FY 2020 and once in FY 2021 and is currently formulating recommendations on a variety of consumer protection issues facing the department. The department will consider creating additional advisory committees as needed.
- Consolidating the former Enterprise Project Management Office (EPMO) into the Information Technology Services Division (ITSD)– one of the Sunset recommendations directed the department to develop a comprehensive approach in developing, maintaining and updating its IT infrastructure. As part of implementing the recommendation, the department moved the EPMO and its functions into ITSD to better align the two divisions and the management of information technology projects. Moving EPMO into the ITSD allows for better coordination and communication and helps the department more effectively achieve its technology objectives.
- Redesign and Implementation of a new Customer Satisfaction Survey – TxDMV’s commitment to continuous improvement includes a project started in September to standardize and align its customer satisfaction surveys to address wide variation in the questions used and data collected. The standardized customer satisfaction surveys were deployed in June of 2019 and full data collection became available during FY 2020.
- Full Implementation of the Regional Service Center Customer Queue Management System– the full implementation of this system established new best practices and procedures impacting customer service through streamlined customer workflow, the availability of new website applications and direct customer feedback via new survey tablets. The new and updated systems included new applications allowing customers to go to www.TxDMV.gov and get in line online or make an appointment for a specific date and time. Initial use of the “WaitAnywhere” reservation application and “Ventus” appointment application was limited to certain transaction types. After the onset of the COVID-19 pandemic, the use of the “WaitAnywhere” reservation application was suspended. The Ventus appointment application enables staff to manage customer flow and social distancing by allowing customers to schedule same-day appointments. It was determined that using only the Ventus

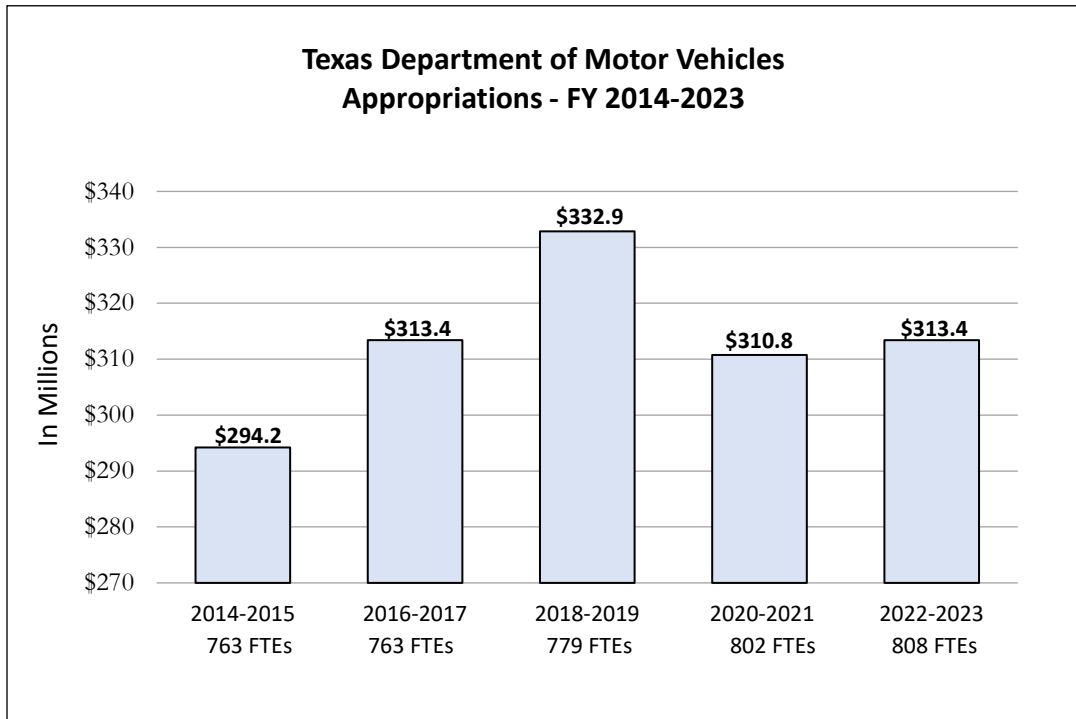
application was just as efficient as using both applications and a decision was made to use only the Ventus appointment application and not to renew the “Wait Anywhere” application. The range of transaction types available through Ventus has been expanded to accommodate most transaction types. The updated queuing system now allows for customers to check-in remotely and wait in their vehicle until texted to enter.

- Preparing for the Transfer of Additional Functions/Programs to TxDMV – as the department looks toward the future, it must be prepared to accommodate any additional duties, functions or programs that it could receive as a result of legislative action. The department will monitor any proposed changes as they develop.

Appendix IV – TxDMV Appropriations History

Texas Department of Motor Vehicles - Appropriations History

The following table illustrates the TxDMV appropriation and FTE history since the FY 2014-2015 biennium.



Excluding one-time adjustments the TxDMV biennial appropriation amounts have remained historically consistent since FY 2016-2017 biennium

Appendix V: Budget Terms and Definitions

Budget Terms and Definitions:

In Alphabetical Order

Annual Operating Budget – An agency’s Annual Operating Budget represents a one-year financial plan supporting the agency’s business operations and addresses base operating requirements and adjustments. The budget covers funding for each division and reflects the most appropriate method of finance and strategy for core activities and continuing programs. The TxDMV Preliminary Operating Budget reflects FY 2020 appropriations as identified in the 86th Legislature, Conference Committee. An agency’s Annual Operating Budget covers a one-year period from September 1 through August 31.

Appropriation – Refers to funding or associated full-time equivalent (FTE) positions authorized for specific fiscal years and provisions for spending authority.

Appropriation Year (AY) – Refers to the specific fiscal year for which an appropriation is made. The appropriation year dictates the year to which the expenditure is authorized/charged.

Base Request – Represents the basis for an agency’s biennial budget. The base request cannot exceed the appropriated amount established by the legislature through the prior biennial GAA, adjusted for Article IX appropriation adjustments.

Benefit Replacement Pay – Benefit Replacement Pay (BRP) is compensation authorized by the Texas Legislature to offset the loss of state-paid Social Security contributions. S.B. 102, 74th Legislature, eliminated the state-paid Social Security payment, effective December 31, 1995. After this date, eligible employees began receiving a supplement known as BRP in place of the state-paid Social Security payment. Eligible employees include those that were employed by the state and subject to FICA taxes on August 31, 1995 and have been continuously employed by the state since that date; employees that left the state but returned within 30 consecutive calendar days and those that retired before June 1, 2005 and returned to work with the state before September 30, 2005.

Biennium – Two-year funding cycle for legislative appropriations.

Capital Budget – The portion of an agency’s appropriation that is restricted to expenditures for designated capital construction projects, capital acquisitions or projects.

Centralized Accounting and Payroll/Personnel System (CAPPS) – CAPPS is the official name of the statewide Enterprise Resource Planning (ERP) system created by the Comptroller of Public Accounts (CPA) ProjectONE team. CAPPS will replace legacy systems with a single software solution for financial and Human Resources (HR)/Payroll Administration for Texas state agencies. The modules for TxDMV’s CAPPS include: Asset Management; General Ledger/Commitment Control (Budget); Payables; Purchasing/eProcurement; HR and Payroll Administration.

Expended – The actual dollars or positions utilized by an agency or institution during a completed fiscal year; a goal or strategy; an object of expense; or an amount from a particular method of finance.

General Appropriations Act (GAA) – The law that appropriates biennial funding to state agencies and higher-education institutions for specific fiscal years and sets provisions for spending authority.

General Revenue (GR) (Fund 0001) – The fund that receives state tax revenues and fees considered available for general spending purposes and certified as such by the Comptroller of Public Accounts.

Federal Funds/Grants – Funds received from the United States government by state agencies and institutions that are appropriated to those agencies for the purposes for which the federal grant, allocation, payment or reimbursement was made.

Fiscal Year (FY) – September 1 through August 31 and specified by the calendar year in which the fiscal year ends. For example, FY 2022 runs from September 1, 2021 through August 31, 2022.

Full-Time Equivalents (FTEs) – Units of measure that represent the monthly average number of state personnel working 40 hours per week.

Lapsed Funds – The unobligated balance in an item of appropriation that has not been encumbered at the end of a fiscal year or at the end of the biennium. Appropriations expire if they are not 1) obligated by August 31 of the appropriation year in which they were made or 2) expended within two years following the last day of the annual year.

Line-item – An element of spending authority granted to an agency or institution in an appropriations bill. It is, literally, a line in the General Appropriations Act specifying an agency's appropriations for a specific designated use. In Texas, the governor may veto a line-item.

Method of Finance – This term usually appears as a heading for a table that lists the sources and amounts authorized for financing certain expenditures or appropriations made in the General Appropriations Act (GAA). A source is either a "fund" or "account" established by the comptroller or a category of revenues or receipts (e.g., federal funds).

Processing and Handling Fee – In accordance with H.B. 2202, 83rd Legislature, Regular Session, in June 2016, effective January 1, 2017, a new processing and handling (P&H) fee for registration activities was adopted. The P&H fee is set at an amount (\$4.75) sufficient to cover the costs of registration services.

Rider – Sets specific instructions regarding the expenditure or collection of funds by an agency.

Salary Budget – Fiscal year salaries include projected annual costs based on prior year actual salaries with adjustments for vacancies, merits and projected longevity costs.

State Highway Fund (Fund 0006) – Constitutionally created fund that dedicates net revenues from motor vehicle registration fees and taxes on motor fuels and lubricants. Revenue is used for highway construction and maintenance, acquisition of rights-of-way and law enforcement on public roads.

TxDMV Fund (Fund 0010) – S.B. 1512, 84th Legislature, Regular Session, re-created the TxDMV Fund outside of the GR Fund and directed an agency to change its deposit schedule beginning in FY 2017. S.B. 1512 also redirected the revenues previously identified in H.B. 2202, 83rd Legislature, Regular Session, associated with certain TxDMV fees to be deposited to the credit of the newly established TxDMV Fund.

Unexpended Balance (UB) or Carry-Forward – The amount left in an item of appropriation at the end of an appropriation period and includes only that part of the appropriation, if any, which has not had an obligation or commitment made by an agency in charge of spending the appropriation. The term also refers to the amount of an appropriation, a fund or a category of revenue which is brought forward (appropriated) to the succeeding fiscal year. Agencies must have legislative authority to move funds from one year to the next and/or from one biennium to the next biennium.

*Appendix VI: Finance and Administrative Services
Contacts*

Finance and Administrative Services Contacts

Sergio Rey, Assistant Chief Financial Officer
512-465-1216

Vacant, Purchasing Director
512-465-1257

Eric Horn, Accounting Operations Director
512-465-4203

Ann Pierce, Assistant Division Director, Administrative Services
512-465-4100

Budget Analysts

John Ralston, Budget Team Lead
512-465-4182

Nagwa Tadros, Budget Analyst
512-465-1401

Enrique Flores, Budget Analyst
512-465-4195

Myron Alexander, Budget Analyst
512-465-5178

Revenue Forecasting

Brian Kline, Revenue Forecasting Team Lead
512-465-4194

Laura Fowler, Financial Analyst
512-465-5851

Steve Sandoval, Financial Analyst
512-465-1448

Planning

Lisa Conley, Planner
512-465-4186

Board Meeting Date: 8/5/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Sergio Rey, Finance & Administrative Services Interim Division Director
Agenda Item: 11.D
Subject: Third Quarter Financial Report ending May 31, 2021

BRIEFING ONLY

Presentation on the financial summary of the Texas Department of Motor Vehicles' revenue collections and department expenditures through the third quarter of Fiscal Year 2021 ending May 31, 2021

PURPOSE AND EXECUTIVE SUMMARY

The TxDMV is self-sufficient and supports its expenditures through revenues deposited to TxDMV Fund 0010, except for the Motor Vehicle Crime Prevention Authority (MVCPA) Division. MVCPA is fully funded through fees deposited to the credit of the General Revenue Fund.

Through the third quarter of FY 2021, the key highlights of the department's revenues and expenditures are:

- The department's total revenue deposits (all funds) were \$1.4 billion, a 4.4% increase compared to the third quarter of FY 2020.
- TxDMV Fund 0010 collections totaled \$112.8 million, a 3.9% decrease compared to third-quarter FY 2020.
- All-fund (General Revenue Fund and TxDMV Fund) obligations (including expenditures and encumbrances) totaled \$140.2 million. This includes expenditures associated with COVID-19 in the amount of \$2.0 million.
- The department collected sufficient revenue through the third quarter of FY 2021 to support its expenditures during the same period.
- The ending **TxDMV Fund 0010** balance at May 31, 2021, was \$160.7 million. Inclusion of encumbrances adjusts the **net balance to \$134.6 million**.

FINANCIAL IMPACT

Total Revenues (All Funds)

TxDMV revenue deposits totaled \$1.40 billion through the third quarter of FY 2021. This amount includes:

- \$ 1,207.8 million for the State Highway Fund (Fund 0006);
- \$ 83.0 million for the General Revenue Fund (Fund 0001); and
- \$ 112.8 million for the TxDMV Fund (Fund 0010).

TxDMV Fund 0010 Revenues

FY 2021 collections for TxDMV Fund 0010 totaled \$112,755,632. This amount includes revenues from titles, registered vehicles, license plates, oversize/overweight permits, motor vehicle business licenses, processing and handling fees, and miscellaneous fees.

TxDMV Fund 0010 revenues decreased by 3.9% compared to FY 2020. The decrease in FY 2021 revenues compared to FY 2020 is attributable to fee waivers and the decline in economic activity related to COVID-19.

Expenditures/Obligations

Obligations through May 31, 2021, totaled \$140.2 million (\$105.2 million in expenditures and \$35.0 million in encumbrances) for all funds. Significant expenditure categories continue to include salaries, contract services for plate production, printing costs for Vehicle Titles and Registration Division forms, postage, and Data Center Services costs. Included in expenditures is \$5.9 million for contract payments to MyPlates, the specialty-plates vendor. Contract payments to MyPlates are contingent upon revenues collected.

To date the department has incurred \$2.0 million in FY 2021 obligations related to the COVID-19 response. The majority of the cost is related to staff time responding to operational issues, i.e., planning and implementing new policies/procedures, modifying facilities for customer service and disinfecting services. Tracking of staff time for COVID-19 ended on May 31, 2021.

The FY 2021 budget through May 31, 2021, includes \$10.0 million in unspent balances of FY 2020 appropriations. The primary drivers of the remaining balance include savings from vacant positions, less than anticipated license plate production expenses, and agency reserves. The authority to carry forward the unspent funds from FY 2020 was approved by the Legislature during the 86th regular legislative session.

The FY 2021 capital project budget obligations through May 31, 2021, include expenditures of approximately \$13.7 million and encumbrances of approximately \$7.4 million, for a total obligated amount of \$21.1 million. This includes \$10.9 million in obligations for Data Center Services; \$6.4 million for Automation; and \$2.6 million for County Technology. The remaining capital obligations are for agency support for vehicle replacement, technology, and facilities. The FY 2021 capital project budget includes \$23.1 million in funds carried forward from FY 2020; the majority of the carry forward is for the Automation capital budget.

The FY 2021 budget includes continued funding for exceptional items that were approved by the Legislature during the 86th regular legislative session. The exceptional items approved include nine new full-time equivalents (FTEs) and associated funding for the Consumer Relations Division, and twelve new FTEs for the Information Technology Services Division. The Legislature also approved a contingency rider for the implementation of a digital license plate program that included two FTEs for the Vehicle Titles and Registration Division. A contract was awarded in October 2020 to a third-party vendor to provide digital license plate services and implementation is underway.

BACKGROUND AND DISCUSSION**MyPlates**

The current (third) specialty-plates marketing contract executed with MyPlates runs from November 19, 2019, to December 31, 2025, with an option to renew the contract for an additional six-year term. The contract includes a minimum guarantee of \$25 million into the General Revenue Fund from the sale of personalized and non-personalized new vendor specialty plates, as well as 5% of the revenue from the renewal of these plates, during the term of the contract.

General Revenue Fund 0001 deposits associated with the MyPlates contract from November 19, 2019, to May 31, 2021, totaled \$27.2 million. Of the \$27.2 million, \$12.5 million counts toward the \$25 million contract guarantee.

COVID-19 Summary

It has been more than one year since COVID-19 has changed the way the TxDMV has provided business to the customers of the state of Texas. Governor's proclamations, state economy, unemployment numbers temporarily going up, and the February weather are just some of the events that have taken place that have affected our revenues and expenditures this past year. Below is a summary of the impacts that have happened through the third quarter of FY 2021.

Revenue

- The cumulative impact on revenues since the beginning of the COVID-19 event is a loss of \$37.2 million specifically due to fee waivers for delinquent title transfer penalties and certain temporary permits (along with the associated processing and handling fees on the permits). The waiver period ended on April 14, 2021.
- The cumulative impact on revenues since the beginning of the COVID-19 event is an additional loss of \$283.9 million due to a general decline in economic activity during the period.

Obligations

- TxDMV began providing resources in March 2020 in response to the COVID-19 pandemic. Response activity has continued into FY 2021.
- In FY 2020 expenses for COVID-19 response totaled \$1.7 million and were primarily for staff time dedicated to the response, facility maintenance improvements and cleaning, and the acquisition of personal protective equipment. FY 2021 expenditures through May 2021 totaled \$2.0 million and were primarily for facility cleaning contracts, employee time devoted to COVID-19 response, and temporary contract workers for the Consumer Relations Division. The estimated overall cost of the pandemic including the \$1.7 million from FY 2020 and \$2.1 million from FY 2021 is a cumulative cost impact of \$3.8 million for the entire event.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.



3rd Quarter Financial Report ending May 31, 2021 Fiscal Year 2021



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

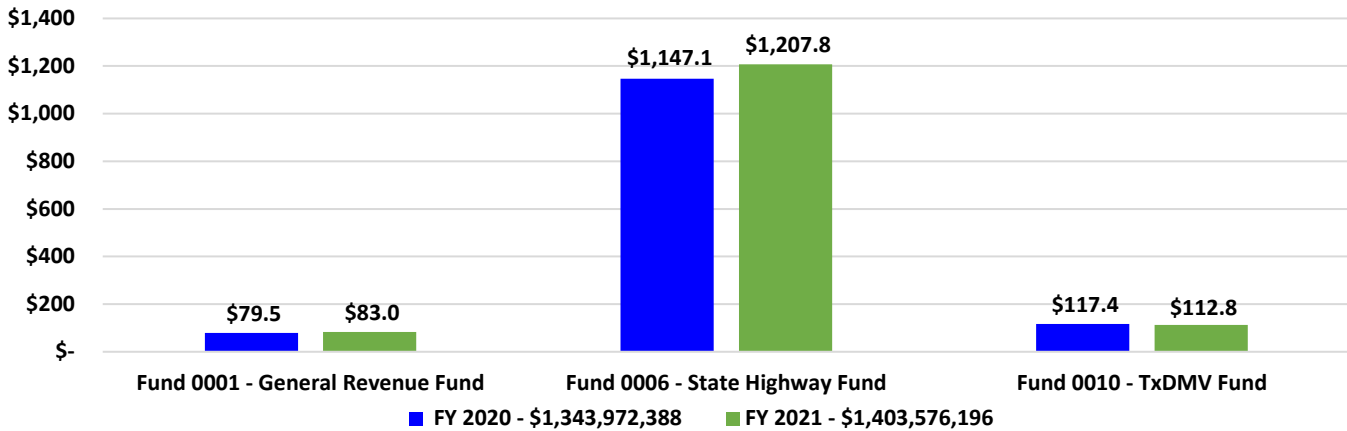
Actual Revenue (All Funds)

September through May FY 2021

Overall Revenue Collections

FY 2020 and FY 2021 Year-over-Year Revenue by Fund

(in millions)



The Texas Department of Motor Vehicles (TxDMV) collected \$1.40 billion through the third quarter of FY 2021. This was 0.1% less than the projected FY 2021 amount and 4.4% above FY 2020 collections. Through the third quarter, compared to FY 2020, the state experienced a steady growth pattern in almost all sectors, resulting in an increase in registration, motor carrier credentialing, motor vehicle business license, and processing and handling fee revenue. Oversize/overweight revenue continues to lag behind FY 2020, but revenue is expected to trend higher later in the current fiscal year. COVID-19 continues to affect the state's economy, including temporarily reduced auto sales (which saw an atypical drop due to the February statewide weather conditions) and downward impacts to the oil-and-gas sector.

Revenue collected for all three funds totaled \$1,403,576,196 through the third quarter of FY 2021. This was an increase of 4.4% from FY 2020. The amount of revenue collected for each fund in FY 2021 is as follows: Fund 0001, General Revenue Fund, \$83,013,437 (4.5% increase from FY 2020); Fund 0006, State Highway Fund, \$1,207,807,128 (5.3% increase from FY 2020); and Fund 0010, TxDMV Fund, \$112,755,632 (3.9% decrease from FY 2020). These fees include: Motor Vehicle Certificates of Title, Motor Vehicle Registration, Motor Carrier Oversize/Overweight, Motor Carrier Credentialing, Motor Vehicle Business Licenses, Processing and Handling Fee, and miscellaneous revenues.

TxDMV revenue deposits through the third quarter of FY 2021 for all three funds by revenue category is shown in the chart below.

FY 2021 versus FY 2020 Year-to-Date Comparison

Year over Year

Revenue Category	Year over Year		% Difference	
	FY 2020 Actual	FY 2021 Actual		
Motor Vehicle Certificates of Title	\$ 59,689,326	\$ 52,773,872	-11.6%	↓
Motor Vehicle Registration	1,091,444,211	1,175,747,785	7.7%	↑
Motor Carrier - Oversize/Overweight	135,347,017	114,392,050	-15.5%	↓
Motor Carrier Credentialing	5,126,054	5,387,143	5.1%	↑
Motor Vehicle Business Licenses	5,433,327	6,111,960	12.5%	↑
Miscellaneous Revenue	9,525,215	8,674,089	-8.9%	↓
Processing and Handling Fee	37,407,237	40,489,297	8.2%	↑
Total	\$ 1,343,972,388	\$ 1,403,576,196	4.4%	↑

September through May FY 2021 Actuals vs Projections

FY 2021 Actuals versus Projections

Revenue Category	FY 2021 Projections	FY 2021 Actual	% Difference	
Motor Vehicle Certificates of Title	\$ 59,644,244	\$ 52,773,872	-11.5%	↓
Motor Vehicle Registration	1,164,123,491	1,175,747,785	1.0%	↑
Motor Carrier - Oversize/Overweight	120,041,573	114,392,050	-4.7%	↓
Motor Carrier Credentialing	5,195,028	5,387,143	3.7%	↑
Motor Vehicle Business Licenses	5,778,071	6,111,960	5.8%	↑
Miscellaneous Revenue	8,559,500	8,674,089	1.3%	↑
Processing and Handling Fee	41,434,696	40,489,297	-2.3%	↓
Total	\$ 1,404,776,602	\$ 1,403,576,196	-0.1%	↓

TxDMV collections in the last few months of FY 2020 reflected a pickup in most revenue streams from the lows of April and early May of 2020. This included registration fees, motor carrier credentialing, motor vehicle business license fees, and processing and handling fees. Most collections continued rebounding as we have progressed through FY 2021, including the effect of the fee-waiver and deferral period coming to a close April 14, 2021. FY 2021 projections shown above were established in the latter part of FY 2020 for board-reporting purposes, and include consideration of COVID-19 effects on revenue streams.

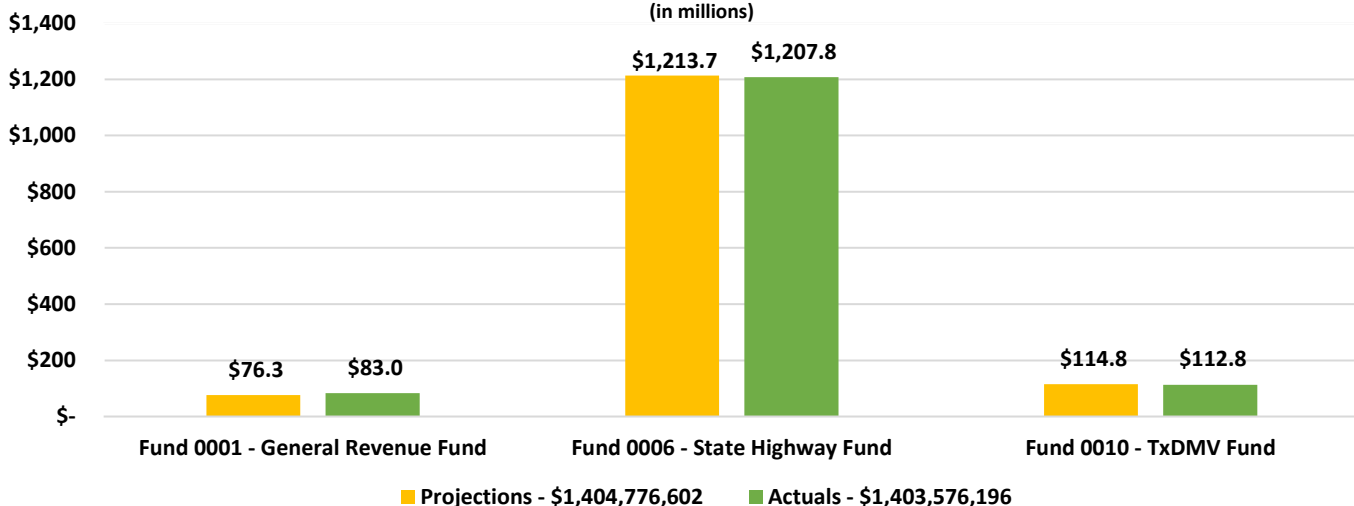
Revenues for most categories saw a decline in the second quarter due to the week of severe weather in February, in which much less business was conducted during that time statewide. However, customer activity picked up as expected in the third quarter and the upward trend is expected to continue in the fourth quarter.

Miscellaneous revenue continues to see a decrease from FY 2020 due to the declining performance of interest rates paid on the TxDMV Fund. These rates have decreased on average from 1.97% in FY 2020 to 0.49% in FY 2021 during the same time period, representing a 75% decline in interest rates.

FY 2021 Actuals vs Projections

Revenue by Fund

(in millions)





Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

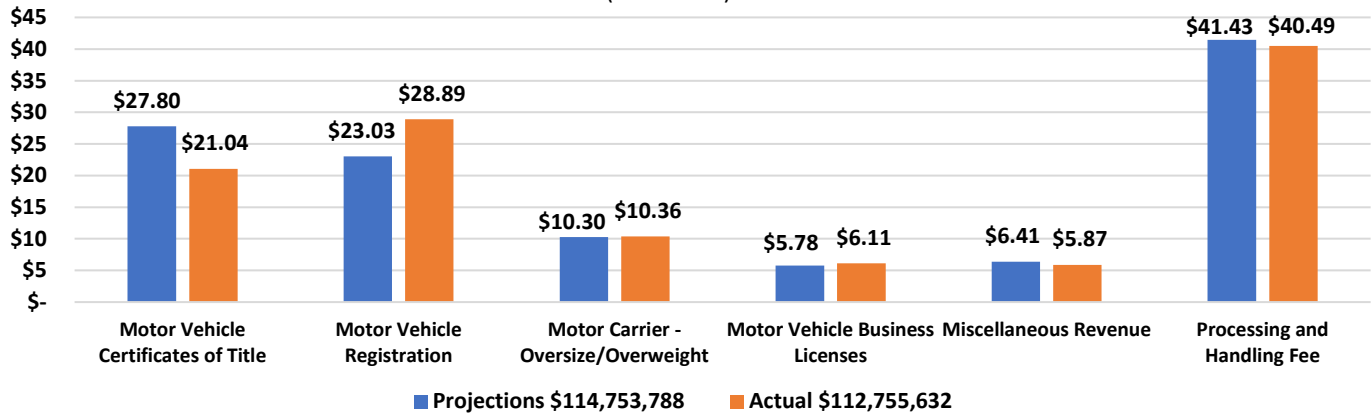
TxDMV Fund 0010 Financial Status Highlights

September through May FY 2021

TxDMV Fund 0010 Highlights

Actuals vs Projections

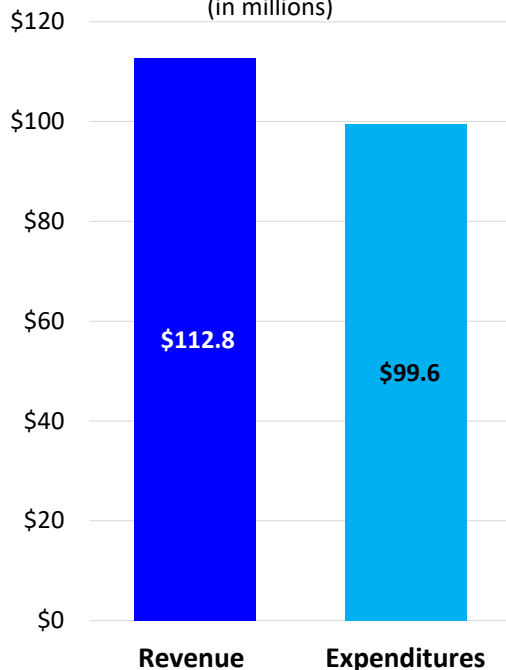
(in millions)



- Overall, TxDMV Fund (0010) revenues were 1.7% (\$1,998,156) below projections through the third quarter of FY 2021. Title revenue was 24.3% under projections, mostly due to the unknown ending date of the waiver period for delinquent title transfer penalty collections when the annual projections were established. Registration revenue was 25.4% over projections (mostly due to strong vendor-plates sales); motor vehicle business license revenue was 5.8% over projections; and oversize/overweight revenue was 0.5% over projections. Miscellaneous revenue was 8.4% under projections, mostly attributable to lower-than-expected interest rates paid on the TxDMV Fund balance.
- TxDMV Fund revenue collections totaled \$112.8 million, which was 3.9% (\$4.6 million) lower than collections during the same time period of FY 2020. This represented: a 28.6% decrease in title revenue (mostly due to the waiver of delinquent title transfer penalties); a 12.5% increase in registration revenue; a 13.4% decrease in oversize/overweight revenue; a 12.5% increase in motor vehicle business license revenue; a 21.3% decrease in miscellaneous revenue; and an 8.2% increase in processing and handling fee revenue.
- TxDMV Fund deposits are not expected to meet FY 2021 projections.

FY 2021 Activity-to-date

(in millions)



TxDMV Fund 0010 Balance

	Year-to-date
Beginning Fund Balance	\$ 147,503,099
Fund 0010 Revenue	
Motor Vehicle Certificates of Title	\$ 21,035,724
Motor Vehicle Registration	\$ 28,890,493
Motor Carrier - Oversize/Overweight	\$ 10,357,236
Motor Vehicle Business Licenses	\$ 6,111,960
Miscellaneous Revenue	\$ 5,870,921
Processing and Handling Fee	\$ 40,489,297
Total Revenue	\$ 112,755,632
Fund 0010 Expenditures	
TxDMV Operational Expenditures	\$ 90,035,453
Fringe Benefits	\$ 9,548,296
Total Operational Expenditures	\$ 99,583,749
Ending Fund Balance, May 31, 2021	\$ 160,674,982
Adjustment for Encumbrances	\$ 26,082,662
Adjusted Net Cash Balance	\$ 134,592,320



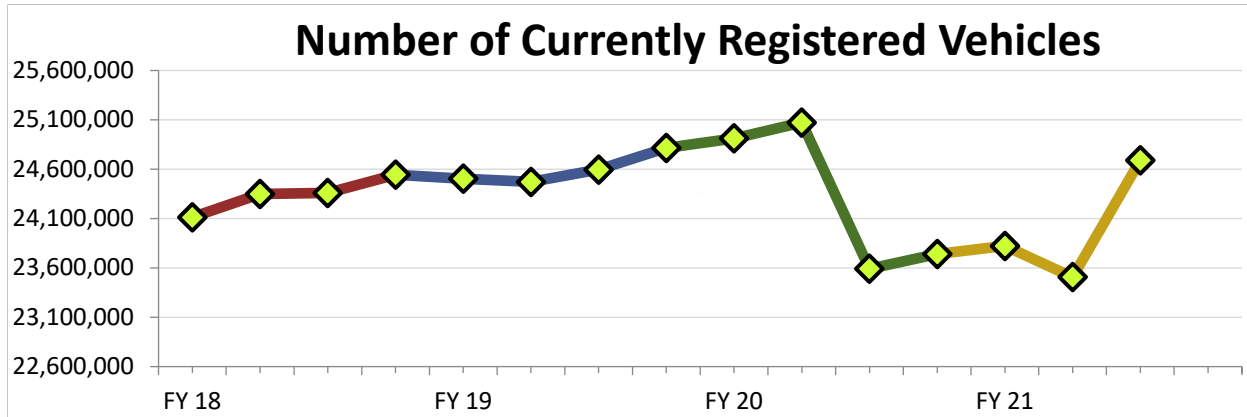
Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

All Funds (Fund 0001, Fund 0006, and Fund 0010): Title, Registration, Oversize/Overweight, and Processing and Handling Fees

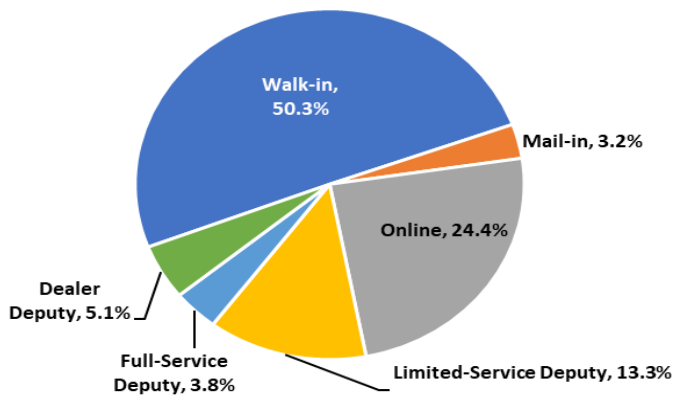
Registration Revenue

- All-funds registration revenue in FY 2021 increased 7.7% (\$84.3 million) from FY 2020. This increase includes the effect of Texans registering their vehicles based on the deferral period coming to an end on April 14, 2021. TxDMV realized strong March and April influxes of revenue in this fee category, with an expectation of steadiness in the remainder of FY 2021.
- All-funds registration revenue was 1.0% (\$11.6 million) higher than projections. This revenue category met the FY 2021 projection and accounted for 84% of TxDMV revenue through the third quarter. The number of non-exempt registered vehicles went from 25.1 million at the end of February 2020 to 24.7 million at the end of May 2021, a decrease of 381,833 (1.5%) vehicles. The number of registered vehicles has rebounded as the deferral period has ended.



Processing and Handling Fee

Transaction Mix from Annual Registrations through the 3rd Quarter

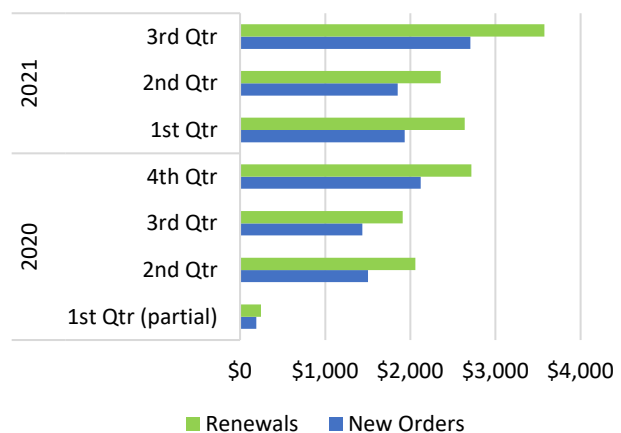


- A majority (50.3%) of annual-registration transactions year-to-date were processed at county offices. Year-to-date online utilization was 24.4%, a 3.6-percentage-point increase from FY 2020.
- With some county offices closed temporarily, more registration renewals were processed online through the third quarter of FY 2021 than the same period of FY 2020. Through the third quarter, online registrations made up 4.4 million of the 18.0 million FY 2021 transactions versus 3.4 million of the 16.2 million FY 2020 transactions.

Vendor Plates

- General Revenue Fund 0001 deposits associated with the (third) MyPlates contract from November 19, 2019, to May 31, 2021, totaled \$27.2 million, of which \$12.5 million counted toward the contract's \$25 million guarantee.
- Since the effective date of the current contract, new orders made up 43.1% of the Fund 0001 mix, and renewals made up 56.9%.

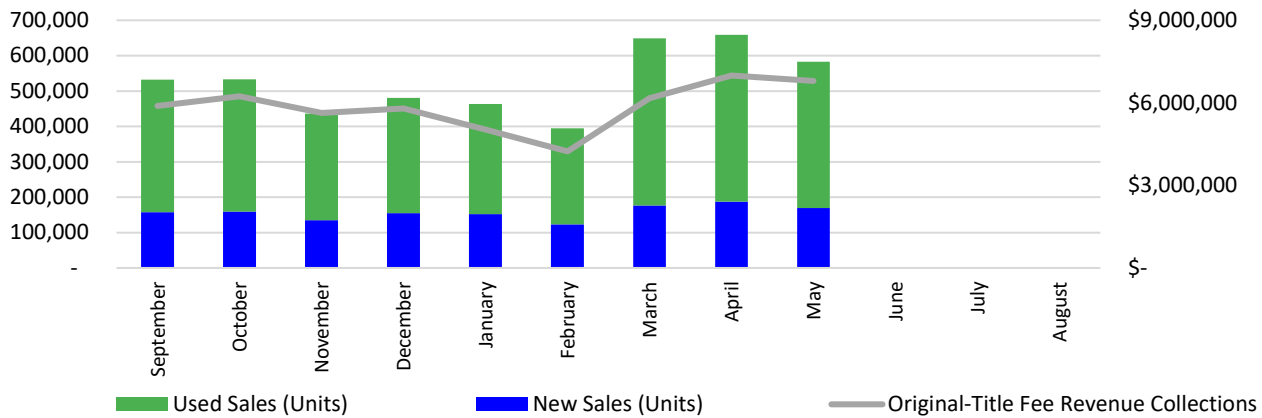
MyPlates Orders (Fund 0001 Portion)
(in thousands)



Motor Vehicle Certificates of Title

- The agency recognized a decrease (from projections) in FY 2021 all-funds title revenue of 11.5% (\$6.9 million) through May FY 2021, primarily due to lower-than-expected delinquent title transfer penalty collections.

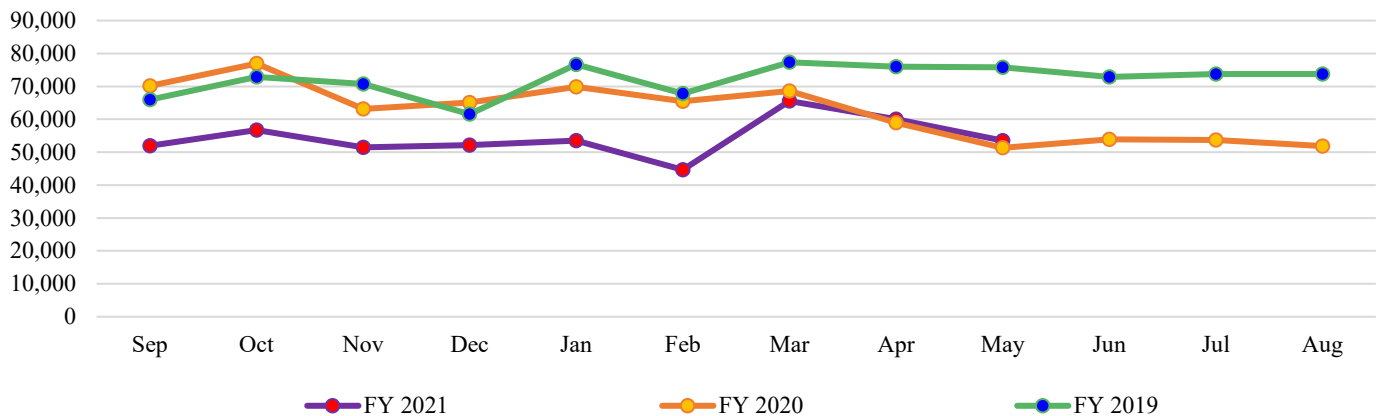
Monthly Auto Sales and Original-Title Fee Revenue Collections



- Revenue from the original-title fee makes up the largest component of certificates of title revenue. In FY 2021, revenue was collected from the issuance of about 4.8 million original titles through the third quarter. This was an increase of 4.2% from the same time period in FY 2020. Original-title issuance is driven by new- and used-vehicle sales.
- Compared to FY 2020, auto sales in FY 2021 increased by 14.1%, with used-car sales up 15.2% and new-car sales up 11.8%, all contributing to a year-over-year increase in original-title revenue.

Motor Carrier Oversize/Overweight

Monthly Oversize/Overweight Permit Issuance



- All-funds oversize/overweight permitting revenue was 4.7% (\$5.6 million) under FY 2021 projections. The number of permits issued in FY 2021 year-to-date was 489,532 compared to 589,694 issued year-to-date in FY 2020, a decrease of 17.0% (100,162 more permits were issued in FY 2020). Decreased activity in the oil-and-gas sector along with a shortage of drivers in the industry has affected the issuance of motor-carrier permits, continuing to result in lower oversize/overweight fee deposits. Revenue in this category did not meet third-quarter FY 2021 expectations, but is expected to see an uptick in the fourth quarter.



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Cumulative COVID-19 Impacts

FY 2021 Financial Impact of COVID-19 Response

- TxDMV began providing resources in March 2020 in response to the COVID-19 pandemic. Response activity has continued into FY 2021.
- Total expenses for FY 2020 related to the COVID-19 response totaled \$1.7 million. Expenses were primarily for staff time dedicated to the response, facility maintenance improvements and cleaning, and the acquisition of personal protective equipment for employees and customers.
- Total FY 2021 obligations for COVID-19 response, from September 2020 through May 2021 was \$2,046,953. The majority of the obligated amount was due to specific facility cleaning contracts that were established for providing COVID-19 cleaning services. The contracts provide cleaning coverage through August 2021. Other primary costs include employee time devoted specifically to COVID-19 response and temporary contract workers brought in to the Consumer Relations Division to assist with workload.
- The total projected cost impact in FY 2021 for COVID-19 response is estimated at \$2.1 million. The total cost estimate also assumes COVID-19 facility cleaning services will continue through the end of the fiscal year. Staff time specifically related to COVID-19 activities ended as of May 2021.
- The overall cost of the pandemic including \$1.7 million from FY 2020 and \$2.2 million estimated for FY 21 is a cumulative cost impact of \$3.8 million.
- The cumulative impact on revenues since the beginning of the COVID-19 event is a loss of \$37.2 million specifically due to fee waivers for delinquent title transfer penalties and certain temporary permits (along with the associated processing and handling fees on the permits). The waiver period ended on April 14, 2021.
- The cumulative impact on revenues since the beginning of the COVID-19 event is an additional loss of \$283.9 million due to a general decline in economic activity during the period.



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

TxDMV Budget

September through May FY 2021**TxDMV Fund 0010**

The beginning budget amount for FY 2021, as approved by the 86th Legislative Session General Appropriations Act, was \$153,007,749. The budget has been modified for the carry forward of unexpended balances from FY 2020 (\$35,236,981) for both capital and operating appropriations); for benefit costs (\$12,595,256); and for higher than anticipated MyPlates commissions (\$2,363,363). The current modified budget amount for all appropriations as of February 2021 is \$203,203,349.

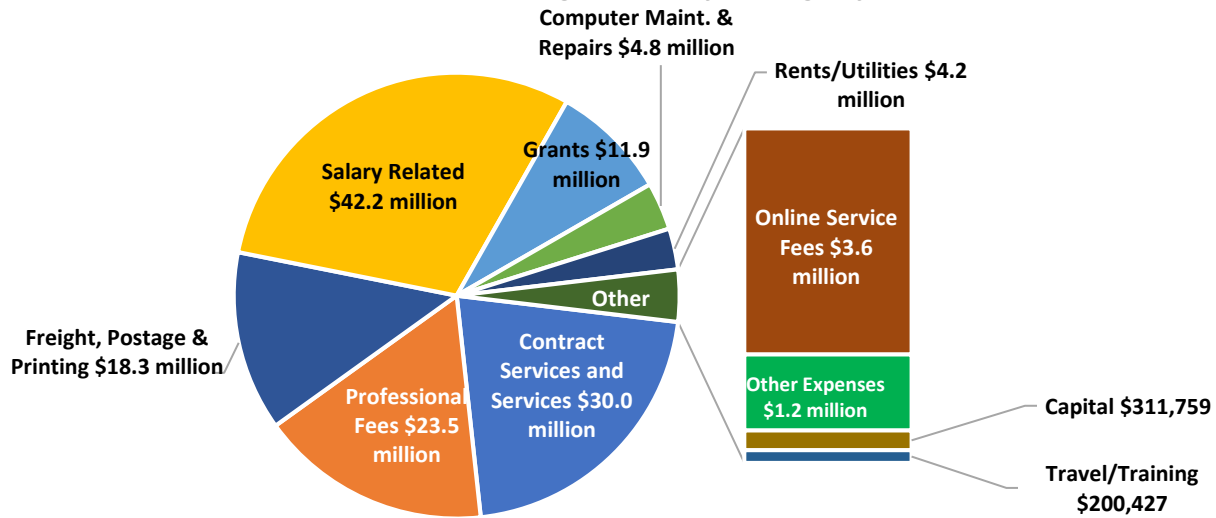
Key components of the FY 2021 budget include:

- Additional full-time equivalents (FTEs) were added for Consumer Relations (9.0 FTEs) and Information Technology Services (12.0 FTEs) beginning in FY 2020 and continuing into FY 2021.
- Capital funding was added for Regional Service Center renovations and upgrades (\$250,000 in FY 2020 and \$250,000 in FY 2021); ITS infrastructure and application improvements (\$1,850,000); and consumer protection and enforcement tracking (\$470,000 in FY 2020 and \$97,500 in FY 2021).
- Funding was also approved in the amount of \$730,000 in FY 2020 and \$1,161,606 to address increases in Statewide Cost Allocation Plan costs. These costs are for legislatively mandated reimbursements to the General Revenue Fund for central services provided by the Comptroller of Public Accounts, such as the maintenance of the statewide financial system used by TxDMV.
- A contingency rider was also approved during the 86th legislative session for implementing a digital license plates program. An appropriation in the amount of \$1.2 million was approved for FY 2020 for two new FTEs in the Vehicle Titles and Registration (VTR) Division and technology costs in the ITS Division. Funding for the FTEs continues in FY 2021. Administrative code rules to establish a digital license plates program have been finalized and a contract with a third-party vendor was approved in October 2020. Public go-live of the Digital License Plate program is in the development phase.
- Unexpended balances from FY 2020 operating appropriations was authorized to be brought forward to FY 2021 by the legislative approval of a rider in the General Appropriations Act.

September through May FY 2021

- Third-quarter TxDMV obligations for all funds totaled \$140.2 million (expenditures of \$105.2 million and \$35.0 million in encumbrances). Encumbrances are outstanding purchase orders that have been issued for goods and services that will be received and expended in the future.

Third Quarter Obligations by Category - All Funds

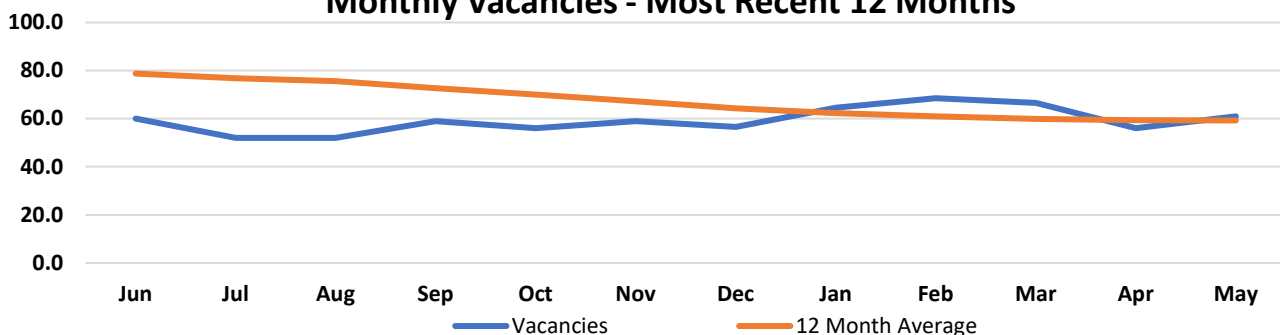


- Major third-quarter obligations in FY 2021 are listed in the chart above. Obligations for freight/postage/printing (primarily postage/printing), contract services, professional fees, salary related, and grants constitute 90% of the department's obligations for the third quarter.
- Printing expenditures are associated with titling and registration forms and imaging costs. Contract services include costs of license plates production, registration decal production, and MyPlates contract obligations. Professional fees are associated with data center services and capital project contractors working on department technology initiatives.

Full-Time Equivalents

- In FY 2020, the approved department FTE count increased from 779 to 802: nine new FTEs for Consumer Relations, twelve new FTEs for Information Technology Services, and two new FTEs for Vehicle Titles and Registration for digital license plates.
- Overall, filled positions have remained constant over the past twelve months, from 742.0 FTEs in June 2020 to 741.0 FTEs as of May 2021. Since the beginning of the biennium, in September 2019, overall staffing has been steadily improving; vacancies totaled 94.0 FTEs in September 2020 but has decreased to 61.0 FTEs as of May 2021.

Monthly Vacancies - Most Recent 12 Months



FY 2021 Highlights

- The FY 2021 budget as of May 31, 2021 was \$203.2 million. This amount included the original baseline total of \$153.0 million as approved by the Legislature during the 86th legislative session; \$35.2 million in funds that were brought forward from FY 2020; a \$2.4 million adjustment for My Plates commissions; and \$12.6 million for benefit costs.
- The baseline total of \$153.0 million provides funding for 802.0 FTEs, ongoing operating costs, and FY 2021 funding for capital projects.
- The \$35.2 million in carry forward funds as of May 31, 2021 is primarily from the continuation of capital projects funded in FY 2020 and continuing into FY 2021. The largest portion of the carry forward is from the TxDMV Automation Project, with a carry forward amount of \$17.7 million.
- The other major driver of carry forward balances is lapsed funds from the FY 2020 operating budget. During the 86th legislative session TxDMV received authority to carry forward any lapsed operating funds from FY 2020 into FY 2021. As of May 31, 2021 the operating carry forward amount was approximately \$10.0 million.
- The operating carry forward has been utilized by TxDMV in FY 2021 to address the continued COVID-19 response as well as other one-time costs as needed.
- The carry forward balance was also utilized to address one-time facility expenditures related to the late February winter storm.

Capital Budget and Projects

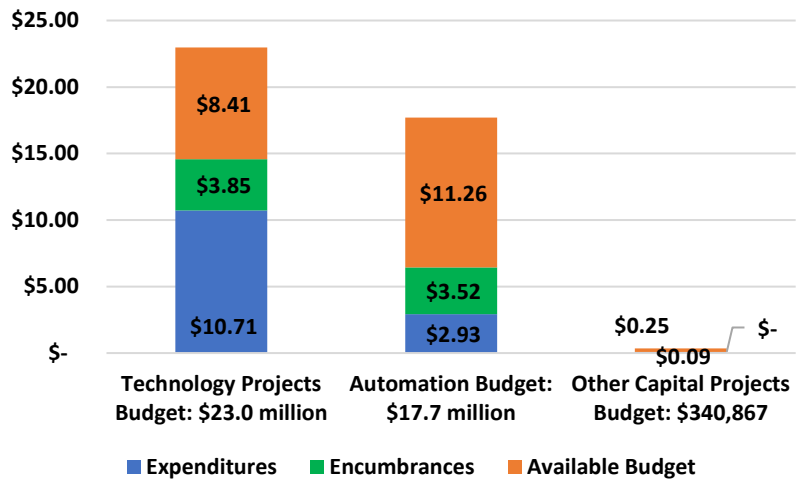
Capital Project Budget Status				
	Revised Budget	Expenditures	Encumbrances	Available Budget
Technology	\$ 22,970,966	\$ 10,712,818	\$ 3,848,712	\$ 8,409,436
Automation	\$ 17,705,666	\$ 2,927,155	\$ 3,519,776	\$ 11,258,736
Other Capital Projects	\$ 340,867	\$ 90,864	\$ -	\$ 250,003
All Capital Grand Total	\$ 41,017,499	\$ 13,730,837	\$ 7,368,487	\$ 19,918,174

Capital Budget Status

The capital budget totals \$41,017,499.

- Including: Expenditures of \$13.7 million, and encumbrances of \$7.4 million, for a total of \$21.1 million in obligations.
- The budget as of the end of the quarter for capital consists of \$23.1 million carried forward from FY 2020 for Automation and HQ Maintenance projects, and \$17.9 million in new appropriations.
- Detailed information on Technology Projects is shown below, and Automation and Other Capital Project information is on the following page.

Third Quarter Capital Budget Status (In Millions)



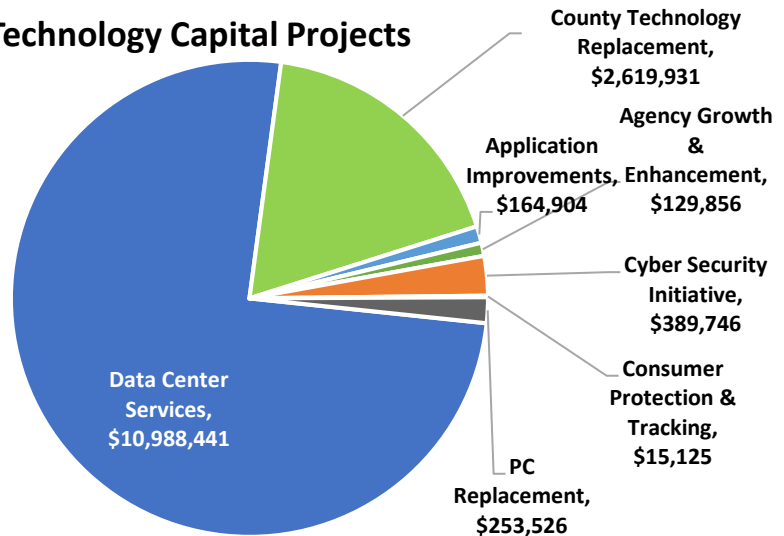
Technology Capital Projects

Technology Highlights

The obligations in the Technology category consist of:

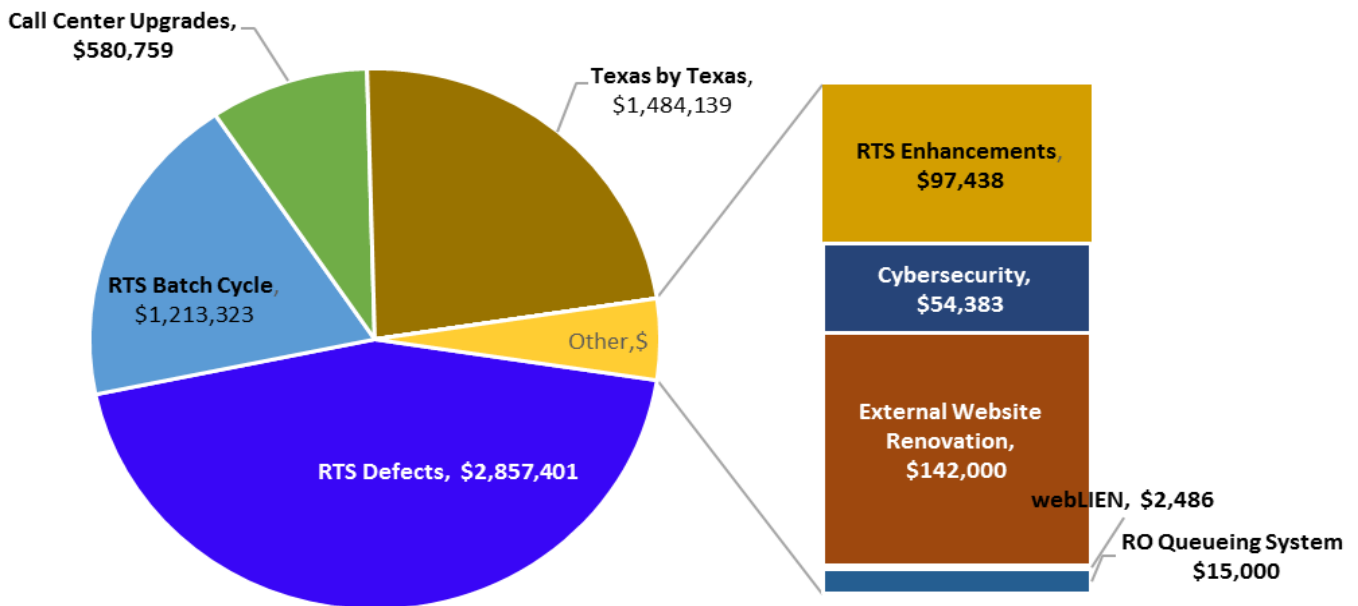
- Data Center Services (DCS), the largest single component of the Technology budget (\$10.9 million), provides management of applications, hardware and technology services for TxDMV.
- The majority of expenditures and encumbrances through May 2021 includes Data Center Services, and toner and technical support for the counties. Obligations in County Technology Replacement and PC Replacement include laptops and desktops for the refresh programs.

Technology Capital Projects



Automation Capital Projects

Automation Obligations: \$6.4 million



- The TxDMV Automation project consists of \$6.4 million in obligations. The primary obligations as of May 2021 are for Registration and Title System (RTS) defects, Texas by Texas application implementation, the Call Center Upgrades Project, and the RTS Batch Cycle project.
- The total Automation budget as of May 2021 is \$17.7 million.
- Approximately, \$4.3 million remains in Unallocated Reserve at the end of May 2021.
- Other top IT initiatives upcoming throughout this fiscal year include webLIEN, the County Sandbox and Digital License Plates.
- With PC Replacement funds, desktops are being replaced with laptops for better telecommuting ease.

Other Capital Projects

- Other Capital Projects budget as of May 2021 totals \$340,867. That amount includes \$90,000 for agency vehicles and \$250,000 for regional service center maintenance.
- Funding for agency vehicles will provide for the acquisition of four vehicles in FY 2021.
- The RSC maintenance capital budget will be utilized in FY 2021 for renovations and facility improvements at the Midland-Odessa Regional Service Center.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.



Board Meeting Date: 8/5/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Sergio Rey, Finance & Administrative Services Interim Division Director
Agenda Item: 11.E
Subject: Texas Comptroller of Public Accounts Post Payment Audit of TxDMV

BRIEFING ONLY

Briefing of an external audit of financial and human resources transactions by the Texas Comptroller of Public Accounts

PURPOSE AND EXECUTIVE SUMMARY

The Texas Department of Motor Vehicles was selected for a routine post-payment audit from the Texas Comptroller of Public Accounts under the authority grant in Texas Government Code 403.011. The audit covers the period beginning December 1, 2019, through November 30, 2020.

FINANCIAL IMPACT

None at this moment

BACKGROUND AND DISCUSSION

The Comptroller of Public Accounts conducts post-payment audits of state agencies and state institutions of higher education on a routine basis. The last post-payment audit for TxDMV was in 2017 covering the period of June 1, 2019 through May 31, 2017.

In the interim, the Comptroller of Public Accounts has conducted two separate audits – Promotional Items Desk Audit and a 2019 Contracts Audit, which its final report was issued January 2021.

The objectives of the audit from the Expenditure Audit Section in the Comptroller’s Fiscal Management Division are as follows:

- Contracts were procured according to the applicable state laws and Comptroller requirements
- Payments were processed according to applicable state laws, Comptroller requirements, and statewide automated system guidelines
- Documentation to support those payment was appropriately maintained
- Financial transaction and high-risk assets were properly recorded.

The audit is currently in fieldwork.

To: Texas Department of Motor Vehicles Board
From: Sandra Menjivar-Suddeath, Internal Audit Division Director
Agenda Item: 11.F
Subject: FY 2022 First Six-Month Internal Audit Plan and Risk Assessment Report

RECOMMENDATION

To approve the FY 2022 First Six Month Internal Audit Plan.

PURPOSE AND EXECUTIVE SUMMARY

The Texas Department of Motor Vehicles Board approves an internal audit plan each year to be in compliance with the Texas Internal Audit Act (Texas Government Code 2102.008). The FY 2022 First Six Month Internal Audit Plan provides information for the entire fiscal year, including an hour analysis and the potential engagements; however, the Internal Audit Division (IAD) is only requesting approval on the engagements, divisional initiatives, and value-added services for the first six months. The plan includes nine risk-based and required engagements, four divisional initiatives, and six value-added services for the first six months. The First Six Month Internal Audit Plan was developed based on the results of the first half risk assessment where IAD reviewed and evaluated 357 operational risks and 66 Fraud, Waste, and Abuse risks.

FINANCIAL IMPACT

No financial impact.

BACKGROUND AND DISCUSSION

IAD identified or reviewed a total of 357 unique operational risks and 66 Fraud, Waste, and Abuse risks. IAD reviewed these risks with management and assigned a risk score to each risk using approved risk guidance. IAD used the risk assessment to identify high risk areas and engagements to conduct in the first six month of the upcoming fiscal year.

IAD identified nine engagements that it will conduct during the first six months of the fiscal year. Out of the nine engagements, four engagements are required and five engagements are risk-based. The five risk-based engagements are tied to the three themes of Operational, Legislative Impact Readiness, and Information Technology.

The plan also includes contingency engagements that could be done in lieu of one of the first half engagements or could be conducted in the second half of the fiscal year.

In addition to the engagements, IAD conducts other value-added services and works on divisional initiatives. Divisional initiatives improve the effectiveness and efficiency of the division while value-added services include items that provide the Department inputs for strategic decision making and fraud, waste, and abuse risk management.



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Fiscal Year (FY) 2022 First Six Month Internal Audit Plan

Internal Audit Division

August 2021

Tables of Contents

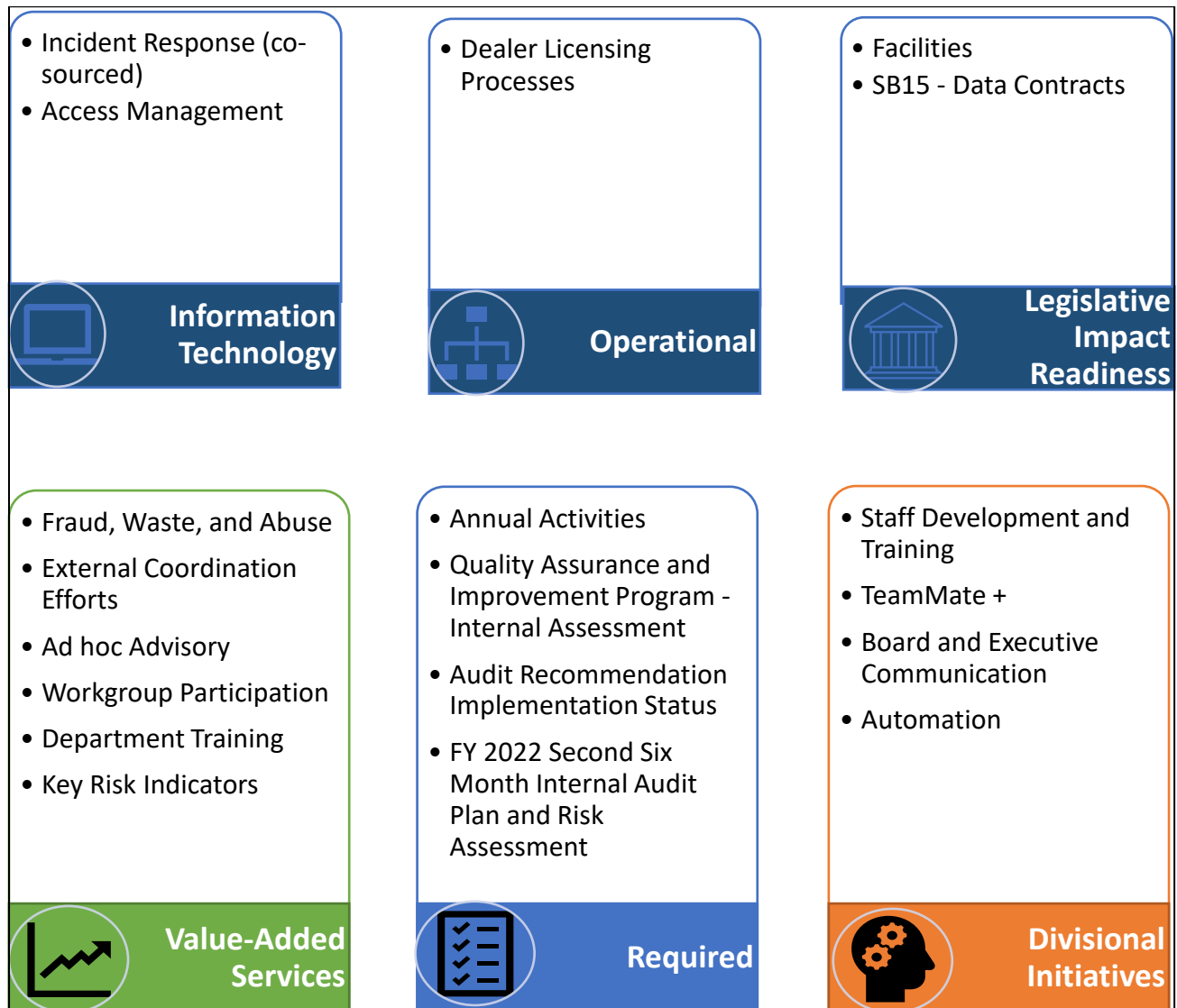
FY 2022 First Six Month Half Summary	1
Engagement and Services Information	2
Detailed Engagement Information	3
Risk-Based and Required Engagements.....	3
Contingency Engagements.....	6
Scope and Methodology	7
Scope.....	7
Risk Assessment.....	7
Hour Analysis	10

FY 2022 First Six Month Half Summary

The Internal Audit Division (IAD) audit plan for fiscal year (FY) 2022 is divided into two six-month plans. IAD moved to a six-month audit plan to allow for flexibility as Texas Department of Motor Vehicles' (TxDMV) risks change rapidly.

The audit plan for the first six months of the fiscal year includes five risk-based engagements tied to three themes and four required engagements. In addition, the plan includes division initiatives, and added-value services. The second half summary is illustrated in figure 1.

Figure 1. First Six Month Audit Plan Summary



Engagement and Services Information



Risk-Based Engagements

- **SB-15 - Data Contract:** With changes to how vehicle records are distributed and monitored, the Department will be enhancing its monitoring process for vehicle data usage. This advisory service engagement would review current and future monitoring processes to help ensure motor vehicle data is used appropriately.
- **Dealer Licensing Processes:** The Motor Vehicle Division is responsible for issuing dealer licenses. This audit engagement would evaluate processes designed to ensure verification of dealer identity, including systems used to review and document criminal history information.
- **Facilities:** The Finance and Administrative Service Division (FAS) is responsible for facilities at headquarters and works with the Regional Service Centers for their facility needs as well as being tasked with operational initiatives designed to improve working conditions and provide updated facilities to customers. The audit engagement would evaluate Facilities' capacity to maintain Departmental headquarters and evaluate whether Regional facilities meet Departmental need.
- **Incident Response:** Incident Response is key information technology control that outlines the steps needed to respond to an issue or incident. This engagement is on the Cybersecurity Roadmap as the next key control area to review. This audit engagement would review the effectiveness of our Incident Response. The engagement will be co-sourced.
- **Access Management:** Access management is a key preventative control that prevents unauthorized access to systems. The Department has many systems that are used by staff, including developers and infrastructure staff. Previous audits have identified potential access issues with applications. The audit engagement would review access management processes.



Required Engagements

- **Audit Recommendation Implementation Status Follow-Up:** Verification of the implementation status for internal and external audit recommendations.
- **FY 2022 Second Six Month Risk Assessment and Internal Audit Plan:** An enterprise-wide risk assessment to identify the high – risk engagement areas for the upcoming six months.
- **Quality Assurance and Improvement Program – Internal Assessment:** An internal self- assessment to determine compliance with audit standards and provide information on IAD's performance.
- **Annual Activities Report:** A statutorily required summary report to the State Auditor's Office of IAD's internal activities conducted in FY 2021.



Value-Added Services

- **Fraud, Waste, and Abuse (FWA) Items:** IAD works on detecting, tracking, and reviewing any internal FWA allegations or State Auditor's Office Hotline complaints. IAD investigates internal FWA allegations.
- **External Coordination Efforts:** IAD coordinates and facilitates any external audits. External coordination efforts include providing audit status update and coordinating responses.
- **Ad hoc Advisory:** IAD sets aside 250 hours to address any short-term assessment or information requests by TxDMV staff during the first half of the fiscal year.
- **Workgroup Participation:** IAD participates in TxDMV work groups to help identify any unforeseen risk in enterprise projects or activities.
- **Department Training:** IAD provides training to help TxDMV staff understand their responsibilities for audits, recommendation implementation, and preventing fraud, waste, and abuse.
- **Key Risk Indicators:** IAD will be monitoring the Fraud, Regional Service Centers, and Procurement & Contract Management risk indicators on a quarterly basis to help with risk mitigation.



Divisional Initiatives

- **TeamMate +:** IAD continues to enhance and support its audit software.
- **Staff Development Plans and Training:** IAD staff take training and create development plans to obtain required knowledge, skills, and abilities.
- **Communication Plans:** IAD continues refining dashboards, communication sites, and other items to provide a snapshot of the Department's risk management, governance, and engagement information to the Department.
- **Automation & Technology Improvement:** IAD will continue to work on automating routing process and leverage technology to be more efficient.

Detailed Engagement Information

Risk-Based and Required Engagements

Tables 1 and 2 provide information on the risk-based and required engagements that will be conducted in the first six month of the FY 2022. The information includes engagement name, engagement hours, TxDMV strategic goal alignment, impacted division(s), and background. The background includes information on how the engagement ties to Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. Information on COSO can be found in Scope and Methodology section, under the [Committee of Sponsoring Organizations of the Treadway Commission \(COSO\) Methodology](#). Table 1 provides information on the risk-based engagement and table 2 provides information on the required engagements.

Table 1. Risk-Based Engagements

Engagement Area	Hours	Strategic Goal(s)	Impacted Division(s)	Background
Incident Response	TBD	Performance Driven	Information Technology Services Division	Over the past few years, organization's incident response plans have been used more often. As natural disasters and cybersecurity events become more common as well as normal incident handling, having an incident response plan that is effective is key. This engagement would look at the Department's incident response plan and would be conducted by the division's co-sourced vendor. This engagement ties to COSO elements of Control Environment, Risk Assessment, and Information and Communication. This engagement will be co-sourced with the Department's vendor and may not be conducted due to schedule or other unforeseen issue with the vendor.
Facilities	900	Optimized Services and Innovation	Finance & Administrative Services Division	With the approval from the Legislature, the Department will begin evaluation of building consolidation and facilities construction planning for headquarters. Additionally, the Department maintains Regional Services Facilities. This engagement would look at the

Engagement Area	Hours	Strategic Goal(s)	Impacted Division(s)	Background
				Department's capacity to maintain headquarter buildings and evaluate the Department's capabilities to meet Departmental needs at Regional facilities. This engagement ties to COSO elements of Control Environment, Risk Assessment, and Control Activities.
SB-15 - Data Contracts	900	Customer Centric Optimized Services and Innovation	Vehicle Titles and Registration	Texas Senate Bill 15 requires enhanced consumer protection and data privacy. This advisory service engagement would evaluate the design of monitoring process concerning vehicle data usage and the appropriateness of data usage to help with the implementation of SB15. This engagement ties to COSO elements of Control Environment, Risk Assessment, and Monitoring.
Dealer Licensing Processes	750	Customer Centric Optimized Services and Innovation	Motor Vehicle Division	The Department is responsible for determining license eligibility for a multitude of dealer licenses. The engagement will evaluate the Department's processes designed to ensure the verification of dealer applicant's identities and applicant's criminal history through the dealer licensing process. This engagement ties to COSO elements of Control Environment, Risk Assessment, Control Activities, and Monitoring.
Access Management	600	Performance Driven	Information Technology Services Division	The engagement will evaluate the how access is managed through the Department as access management is designed to protect user confidentiality, integrity, and user authenticity. This engagement ties to COSO elements of Control Activities and Monitoring.

Table 2. Required Engagements

Engagement Area	Hours	Strategic Goal(s)	Impacted Division(s)	Background
Annual Activities	25	Performance Driven	Internal Audit Division	A statutorily required review that summarizes internal activities conducted in FY 2021. The State Auditor's Office prescribes the report format and information.
Quality Assurance and Improvement Program – Internal Assessment	100	Performance Driven	Internal Audit Division	An internal assessment to determine compliance with audit standards and provide information on IAD's performance. IAD's performance includes an evaluation of Key Performance Indicators and Capability Model.
Audit Recommendation Implementation Status Follow-Up	75	Optimized Services and Innovation Customer Centric Performance Driven	Department-wide	An engagement to verify if outstanding audit recommendations have been fully implemented. Quarterly reporting for internal audit recommendations will be done.
FY 2022 Risk Assessment and Second Half Internal Audit Plan	200	Optimized Services and Innovation Customer Centric Performance Driven	Department-wide	An engagement to identify high – risks areas where engagement may be warranted in the upcoming year.

Contingency Engagements

Table 3 denotes the potential engagements that could be performed during the first six month of the fiscal year if one of the risk-based engagements cannot be done or could be conducted in the second six months.

Table 3. Contingency

Engagement Area	Strategic Goal(s)	Impacted Division(s)	Preliminary Engagement Information
Payment Card Industry Compliance	Performance Driven	Information Technology Services Division	The Department accepts credit cards and is required to meet PCI standards. This engagement would evaluate PCI compliance with one of the requirements. This audit was identified as an area of review in the Cybersecurity roadmap.
Motor Carrier Division	Optimized Services and Innovation Performance Driven	Motor Carrier Division	The Motor Carrier Division operates its own call center that provides information and services to motor carriers. The call center deals with obtaining permits for motor carriers as well as getting credentials to motor carriers. At the end of FY 2021, the Commercial Fleet Services was reorganized with Credentialing. This caused a change on how customers are serviced in the call center. This potential engagement would look at the new reorganization and its impact to the call center.
Strategic Communication (External Communication)	Performance Driven	Department-wide	Communication strategies is a key component to delivering consistent information to external customers. The engagement would evaluate the Department's communication strategies to ensure they are designed to deliver accurate and critical information to stakeholders.
Placeholder	TBD	TBD	In case a risk emerges that requires immediate review, this engagement will be used to substitute one of the risk-based engagements. This engagement will only be conducted in consultation with the Finance & Audit Committee Chair and members and the Board Chair.

Scope and Methodology

Scope

The Internal Audit Plan covers activities and engagements for the first six months of the fiscal year, September 2021 to February 2022, and identifies potential engagements for the second half of the fiscal year.

Risk Assessment

Risk Methodology

The audit plan was developed using a risk-based methodology, which incorporated input from TxDMV board members, executive management, division management, and risks identified by audit staff through previous fiscal year engagements and observations. IAD also analyzed TxDMV information and reviewed internal audit and industry publications to identify and rank potential audit topics by risk. In addition, IAD collected information on the potential controls that were in place to mitigate the identified risks.

Each risk was reviewed using approved Department risk guidance that included the following factors:

- Financial impact
- Operational effectiveness and efficiency impact
- Legal or regulatory impact
- Brand or reputational impact
- Degree of change in the program, function, or process
- Degree of complexity
- Degree of centralization
- Control design strength

357 Department operational risks have been identified through the risk assessment, including an additional 42 risks that had not been identified in previous risk assessments or were new risks due to the changing environments. Each risk identified was scored using the above factors to determine the engagements for the first six-month internal audit plan and contingency engagements.

The risk scores go up to seven and half, which is the highest risk score. Table 4 provides information on the risk scores and definitions for each category.

Table 4. Risk Scores

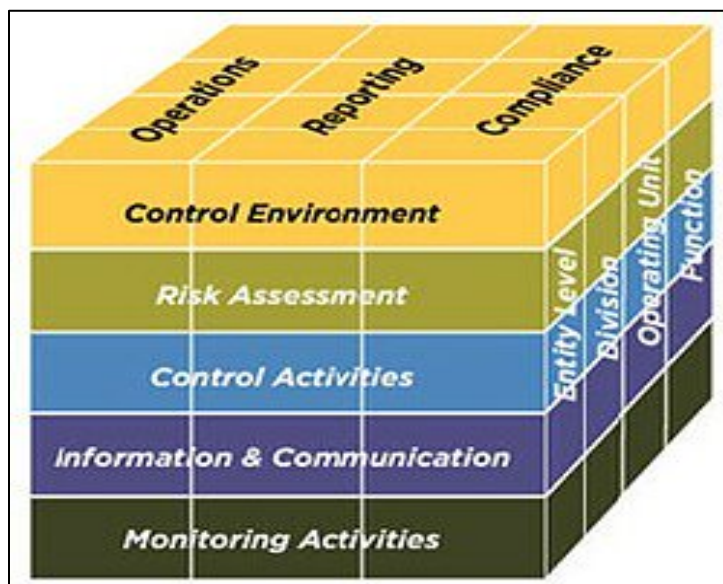
Risk Category	Score	Definition
Very High	> 4.50	The risk may substantially hinder the Department's, division's, and/or function's achieving its objectives or goals.
High	3.50 – 4.49	The risk may significantly hinder to the Department, division, or function achieving its objectives or goals.
Medium	2.50 – 3.49	The risk should be monitored on a regular basis to ensure it does not become an issue; however, it is not currently hindering a Department, division, or function from achieving its objectives or goals.
Low	1.50 – 2.49	The risk is mostly mitigated and may not hinder the Department, division, or function from achieving its objectives or goals.
Very Low	< 1.50	The risk is mitigated and is not hindering the Department, division, or function from achieving its objectives or goals.

Committee of Sponsoring Organizations of the Treadway Commission (COSO)

Methodology

Once all risks were reviewed and ranked, the audit team evaluated each risk using the COSO *Internal Control – Integrated Framework*. The framework integrates three broad objectives (Operations, Reporting, and Compliance) and ties those objectives to risks and controls through five internal control components and four structural levels as depicted in Figure 2, COSO cube. The COSO cube depicts how the internal controls framework has a direct relationship between objectives, the components needed to achieve objectives, and a typical organizational structure.

Figure 2. COSO Cube



The definition for the objectives are as follows:

- **Operations objectives:** relate to program operations that achieve an entity's mission. An entity's mission may be defined in a strategic plan. Such plans set the goals and objectives for an entity along with the effective and efficient operations necessary to fulfill those objectives. Effective operations produce the intended results from operational processes, while efficient operations do so in a manner that minimizes the waste of resources.
- **Reporting objectives:** relates to the preparation of reports for use by the entity, its stakeholders, or other external parties.
- **Compliance objectives:** relates to the compliance with applicable law and regulations.

The definition for the COSO Internal Control Components are as follows:

- **Control Environment:** The foundation for an internal control system. The Control Environment is a set of standards, processes, and structures that provide the basis for carrying out internal control across the organization. It provides the discipline and structure to help an entity achieve its objectives. The TxDMV Board and executive management establish the tone at the top regarding the importance of internal control including expected standards of conduct.
- **Risk Assessment:** The processes used to determine how risk is to be managed. TxDMV management assesses the risks facing the entity as it seeks to achieve its objectives.
- **Control Activities:** The actions TxDMV management established through policies and procedures to achieve objectives and respond to risks in the internal control system, which includes information systems.
- **Information and Communication:** The quality of information TxDMV management and staff generate and use to communicate and support the internal control system on an ongoing and iterative basis.
- **Monitoring:** The activities TxDMV management established to assess the quality of performance over time. The activities include ongoing evaluations, separate evaluations, or some combination of the two. The activities are used to ascertain whether each of the five components of internal control, are present and functioning.

Fraud, Waste, and Abuse Consideration

During the risk assessment, the IAD also conducted an update to the fraud, waste, and abuse risk assessment. Those risks were reviewed as part of this risk assessment.

Themes

For the FY 2022, three themes were developed to help provide an overall perspective on internal audit's focus for the first six months:

- **Legislative Implementation Readiness:** Areas and functions significantly impacted by legislation changes.
- **Operational effectiveness:** Areas and functions where processes and overall operations had significant change in management or processes are expected to be changed.
- **Information Technology:** Areas where the spread of new technologies, data collection methodologies, and automation increases risks to our organization and customers.

Hour Analysis

Engagement hours were calculated using historical data and auditor's judgement. Hours are an estimate and could be adjusted at the beginning of an engagement. IAD identified 1500 hours available for the second six months.

Board Meeting Date: 8/5/2021
BRIEFING

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

RECOMMENDATION

Briefing Only – No recommendation.

PURPOSE AND EXECUTIVE SUMMARY

The status update provides information on current Internal Audit Division (IAD) activities. The August 2021 update contains information on external coordination efforts, the fiscal year (FY) 2021 Internal Audit Plan status, and Peer Review results.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

At every TxDMV Board meeting, IAD provides an update and status on current activities, including any recent reports issued, external coordination efforts, and other activities.

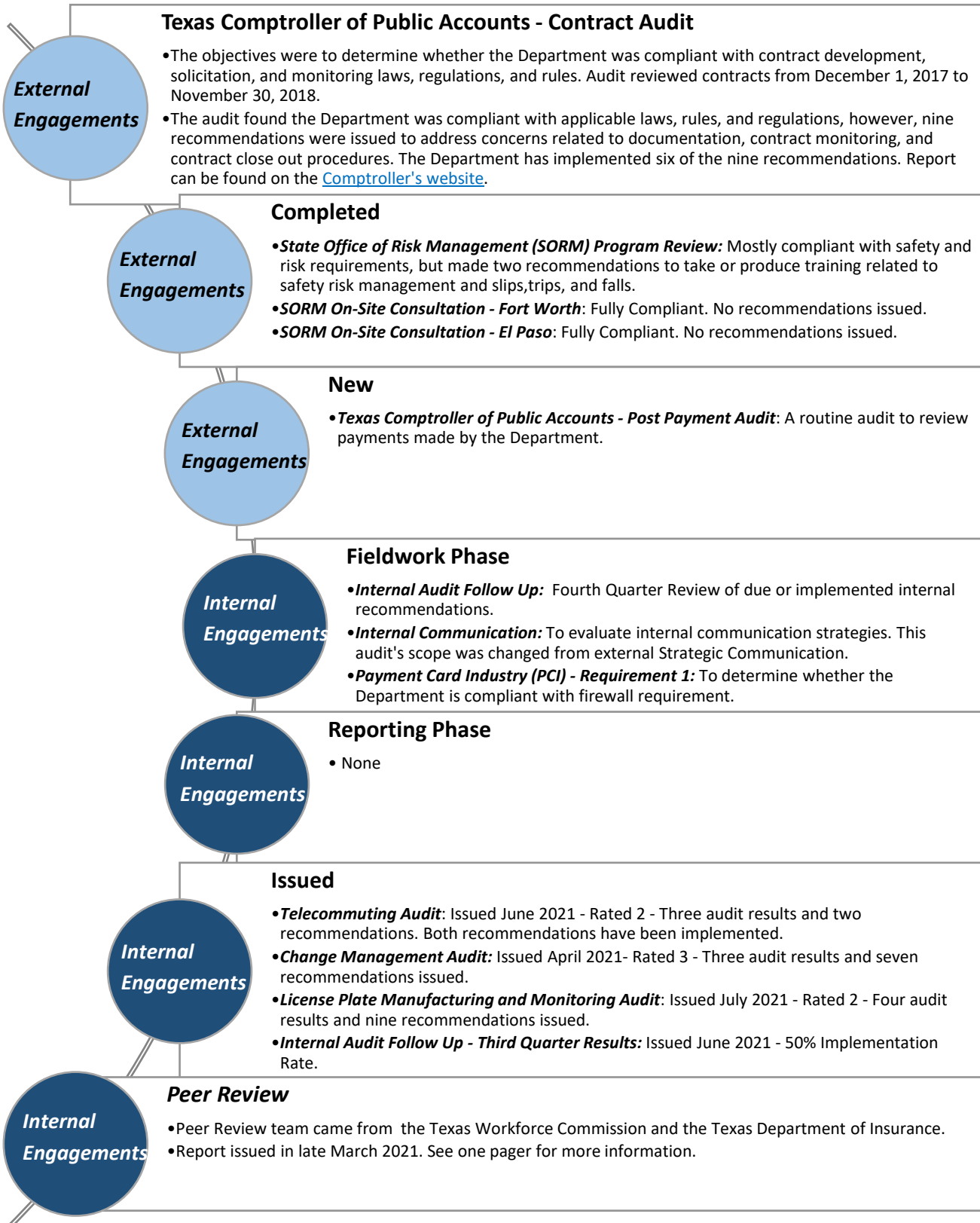
External Engagements

IAD tracked five external coordination's efforts, including the newly released Texas Comptroller of Public Accounts (Comptroller) Contract audit. The Comptroller audit report provided information on whether the Department was compliant with contract development, solicitation, and monitoring requirements. The Department was found mostly compliant and the Department has already implemented several of the recommendations.

Internal Engagements

IAD worked on six engagements in the past few months. A quarterly follow-up memorandum and three audit reports were issued in the past four months. IAD continues to work on two audits and the follow-up for internal audit recommendations that are due or implemented in the fourth quarter of this fiscal year.

In addition, IAD had an external assessment (Peer Review) conducted on itself. The Peer Review process concluded in March 2021 when the Peer Review released the Peer Review Report. The **one-pager**, after the division status, details all key information found in the report and outlines the Peer Review process.



Internal Audit Division – Peer Review Process and Results

Peer Review Process

Three year requirement.

Peer Review team made up of other state agency auditors.

Concludes whether the function confirms with requirements for the past three fiscal years.

Team reviews compliance with internal audit standards.

Validates External Audit Recommendations Implemented.

Determines effectiveness and efficiency.

Peer Review Results

Confirmed IAD was in compliance with all internal audit standards.

Confirmed compliance with overall function requirement.

Confirmed compliance with all engagement requirements. One recommendation issued to document sample selection in engagements.

Confirmed IAD implemented recommendation related to ethics.

Identified best practices related to technology use.

**Report on the External Quality Assurance Review of the
Texas Department of Motor Vehicles
Internal Audit Division**

March 2021



Performed by

**Arby James Gonzales, CPA, CFE
Internal Audit Director
Texas Department of Insurance**

**Harold Rogers, CIA, CISA
Internal Auditor
Texas Workforce Commission**

**Performed in Accordance with the
State Agency Internal Audit Forum
Peer Review Policies and Procedures**

Overall Opinion

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

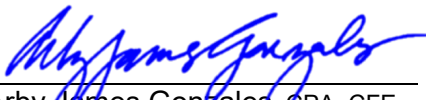
The Internal Audit Division is independent, objective, and provides impartial and unbiased judgments on the audit work performed. Division staff are qualified, proficient, and knowledgeable in the areas they audit. Individual audit projects are planned using risk assessment techniques; audit conclusions are supported in the working papers; and findings and recommendations are clear and concise.

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

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

Acknowledgements

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



Arby James Gonzales, CPA, CFE
Internal Audit Director
Texas Division of Insurance
SAIAF Peer Review Team
Leader

April 21, 2021
Date



Harold Rogers, CIA, CISA
Internal Auditor
Texas Workforce Commission
SAIAF Peer Review Team Member

April 21, 2021
Date

Background

The Institute of Internal Auditors (IIA) *International Professional Practices Framework*, U.S. Government Accountability Office (GAO) *Government Auditing Standards*, and the Texas Internal Auditing Act require that internal audit functions obtain external quality assurance reviews to assess compliance with standards and the Act and to appraise the quality of their operations. Government auditing standards require these reviews at least every three years. A periodic external quality assurance review, or peer review, of the internal audit function is an essential part of a comprehensive quality assurance program. This quality assurance review was performed in accordance with State Agency Internal Audit Forum (SAIAF) Peer Review guidelines. No member of the review team had a conflict of interest with the Texas Department of Motor Vehicles or its Internal Audit Division.

The most recent quality assurance review for the Texas Department of Motor Vehicles Internal Audit Division was performed in May 2018.

Objectives, Scope, and Methodology

The primary objective of the quality assurance review was to evaluate the Texas Department of Motor Vehicles Internal Audit Division's compliance with auditing standards and the Texas Internal Auditing Act. Additional objectives included identifying best practices as well as areas where improvement may be needed. The review covered all completed audit and management assistance projects performed by the Texas Department of Motor Vehicles Internal Audit Division from September 2017 through August 2020.

The work performed during the review included:

- Review, verification, and evaluation of the self-assessment prepared by the Internal Audit Division according to SAIAF guidelines.
- Review and evaluation of e-mailed surveys completed by Department management.
- Interviews with the Internal Audit Division Director, Internal Audit Division staff, the Department's Executive Director, five senior Department managers, and four Board members, including the Chairman of the Board and Chairman of the Audit Committee.
- Review and evaluation of audit working papers.
- Review of the Internal Audit Division's policies and procedures, annual risk assessment, annual audit plan, and other relevant documents.

Detailed Results

The results of the quality assurance review for the Texas Department of Motor Vehicles Internal Audit Division are presented in the order of the *Standards for the Professional Practice of Internal Auditing*. No significant weaknesses were identified during the review that would prevent the division from fulfilling its responsibilities. The detailed results include identification of best practices as well as some opportunities for improvement that the Internal Audit Division may wish to consider.

IIA Code of Ethics

The Internal Audit Division demonstrates its commitment to the IIA Code of Ethics by including it in the Internal Audit Policies and Procedures Manual, attending periodic ethics training classes, and practicing ethical behavior in the course of its work. In addition, the Internal Audit Charter, which was signed by the Board and the Executive Director in December 2020, establishes the expectation that Division staff will conform to the IIA Code of Ethics.

Purpose, Authority, and Responsibility

The Internal Audit Charter defines the Division's purpose, authority, and responsibility consistent with auditing standards. The current charter defines the nature of audit and consulting services and grants the Division free and unrestricted access to Department records, property, and personnel.

Independence and Objectivity

The Internal Audit Division is independent both in terms of the Department's organizational structure and the Division's practices. The Internal Audit Division Director reports directly to the Board and the Finance and Audit Committee, which provides sufficient authority to promote independence and to ensure adequate consideration of audit reports and appropriate action on audit issues and recommendations. Removal of the Internal Audit Division Director requires Board approval.

The Internal Audit Charter helps ensure continued independence by specifying that internal auditors will have no direct operational responsibility or authority over any of the activities audited, and they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity related to non-audit functions that may impair their independence. In addition, auditors are required to sign independence statements for each audit they perform.

Proficiency and Due Professional Care

The internal auditors individually and collectively possess the knowledge, skills, and abilities to perform their responsibilities. Two of the five auditors have at least one relevant professional certification. Internal auditors are required by the Division's policies and procedures to enhance their knowledge, skills, and abilities by obtaining at least 40 hours of continuing professional education each year. The Division has hires contractors to assist in areas for which its expertise or resources have not been sufficient to satisfy the audit objectives.

The Internal Audit Division ensures staff practice due professional care in engagements by including language in templates requiring staff to consider project needs and complexity; resources; adequacy, timing, and expectations; etc.

Texas Department of Motor Vehicles Internal Audit Division
External Quality Assurance Review – March 2021

Quality Assurance and Improvement Program

The Internal Audit Division Director has developed and maintains a quality assurance and improvement program that covers all aspects of the internal audit activity and assesses the efficiency and effectiveness and identifies opportunities for improvement and the progress of those improvements as documented in its FY 2020 Quality Assurance and Improvement Program Report. The program provides reasonable assurance that the Internal Audit Division and its personnel comply with professional standards and applicable legal and regulatory requirements. The Internal Audit Division has an external peer review at least once every 3 years as documented in its 2018 Peer Review Report.

Managing the Internal Audit Activity

The Internal Audit Division Director manages the Division to ensure it adds value to the Department. The Division conducts a risk assessment that forms the basis for the Audit Plan—which the Division develops twice a year—that the Board approves. The risk assessment quantifies risks per division and considers the Department's and each division's goals and objectives. The Division works with the Board and executive management to ensure the risk assessment and audit plans match their objectives, and the Director and the Division are open to Board and executive management's suggestions and feedback. The Division completes projects identified in audit plans and completes ad hoc project requests from the Board and executive management.

The Internal Audit Division Director ensures that the Division is appropriately staffed and resources are sufficiently and effectively deployed to complete the audit plan. The Division established policies and procedures to help guide the Division, and work templates help ensure teams complete audits and advisory projects consistently.

Each internal audit report addresses risk and control issues within the Department. The Internal Audit Division Director developed policies and procedures to guide the internal audit activity. The Director reports the Division's performance relative to the audit plan in an annual report submitted to the Board and in an Annual Report on Internal Audit submitted to the Governor's Office and the State Auditor.

The Internal Audit Division Director communicates information (from audit reports, risk assessments, and ad hoc risks and controls observations) to the Board and executive management whenever necessary. The Board and executive management support the Director through open communication and availability and act on the Director and the Division's results. The Director and Division add value to TxDMV.

Nature of Work

The Internal Audit Division evaluates risks related to financial and operating information as well as the effectiveness and efficiency of operations, safeguarding of assets, and compliance with laws and regulations. The Division also evaluates the extent to which operating, and program objectives have been achieved.

To comply with the 2017 revision to the IIA *Standards* that requires Internal Audit to contribute to the organization's risk management and governance processes, the Division provides information and assistance to the Board and executive management about how the accomplishment of goals is monitored and how accountability is ensured.

Monitoring Progress

The Internal Audit Division has a system for monitoring the disposition of audit issues. The Division uses a software application to monitor recommendations and seek management's responses on the implementation status. Division staff verifies recommendations that have been implemented and assesses their effectiveness if management asserts it has fully implemented the recommendation.

Engagement Planning

The Internal Audit Division meets compliance standards related to planning. It develops and documents a plan for each engagement that includes the objectives, scope, timing, and resource allocations. It obtains sufficient understanding of the program it is auditing, including information systems controls. The project team lead and the Internal Audit Division Director review work to ensure it obtains appropriate understanding of the program under audit. The Division assesses risks (including fraud and noncompliance risks) and controls related to the audit objective and creates a workplan based on that risk assessment. The project team collaborates with the audited program area to ensure risks and controls are accurate, relevant, and helpful. The Director reviews all workplans prior to fieldwork.

Performing the Engagement

The Internal Audit Division meets standards related to performing engagements. Division staff identified, analyzed, evaluated, and documented sufficient information to address audit objectives, and their work was properly supervised by the project team lead and the Internal Audit Division Director. The team obtained sufficient evidence to support a reasonable basis for the auditors' findings and conclusions, and the team generally prepared documentation with sufficient detail to enable an experienced auditor to understand the nature, timing, extent, and results of audit procedures. The project team supported findings, conclusions, and recommendations with sufficient evidence and communicated them to the program area prior to issuing their report.

Opportunity for improvement:

The project teams could improve how it selects samples for testing. For one of the projects selected for during this external review, the audit team selected specific items for testing; however, it did not document the population of items to test, or the reason it selected those items to test. Documenting the reasons for sample selection could help the team better support why their selection is appropriate and addresses the audit objective.

Response:

IAD agrees with the recommendation. While discussions did occur on the sample selection and the other sample was documented, our team did not document the sample selection for the specific items noted. IAD will be updating its templates over the summer and will require teams to document the sample selection in the end of planning meeting. In addition, IAD Director had notified the Quality Assurance team member to note that in the review of workpapers.

Communicating Results

The Internal Audit Division complied with reporting compliance standards. It appropriately communicated project results to staff, management, executive management, and the Board in a form that makes sense for their projects. Reports contained the objectives, scope, and methodology of the audit; audit findings, conclusions, and recommendations; a statement that the project team complied with standards; a summary of managements' responses; and the

Texas Department of Motor Vehicles Internal Audit Division
External Quality Assurance Review – March 2021

nature of any confidential or sensitive information omitted. The reports were timely, complete, accurate, objective, and concise.

Best Practices

The Internal Audit Division is a progressive division that is dedicated to continuous improvement. During the quality assurance review, we observed a number of practices that demonstrate outstanding commitment and professionalism. These leading practices include the following:

- The Internal Audit Division Director's communications with the Board and executive management is open, unbiased, and goes two-ways. The Board and executive management view the Director as a trusted advisor for the Department, and appreciate the Director's points of view on governance, risk, and controls
- The Internal Audit Division develops dashboards to present project progress and impacts on the Department. The Director communicates these dashboards to the Board and executive management, which gives them a solid and reliable tool to understand Department progress, identify gaps in audit coverage, and monitor audit progress.
- The Division uses the full suite of an audit management application to 1) create a universe of risks and controls, 2) quantify and rank risks, which helps focus and support audit project decisions, 3) monitor audit recommendations, which helps track implementation status and requests responses and support allowing Division staff to validate Department's status.
- The Division uses emerging technology—such as robotic automation, bots, modern analysis tools—to automate audit tests, visualize audit plan progress, and monitor transactions for fraud initiatives.
- The Director emphasizes that Division staff keep current with emerging technology and tools and supports staff through continuing education, including taking community college courses.
- Division staff are active and well respected in local professional organizations including the Institute of Internal Auditors – Austin Chapter and the State Agency Internal Audit Function. Division staff have served and continue to serve in leadership positions in these professional groups.

Texas Department of Motor Vehicles Internal Audit Division
External Quality Assurance Review – March 2021

Memo Trevino, Chairman of the Board

Brett Graham, Chairman of the Audit Committee

Whitney Brewster, Executive Director

Sandra Mejivar-Suddeath, Internal Audit Division Director

Board Policy Documents

Governance Process (10/13/11)

Strategic Planning (10/13/11)

Board Vision (4/7/16)

Agency Boundaries (9/13/12)

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 Legitimizing

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 serve, protect and advance the citizens and industries in the state with quality motor vehicle related services.

4. TxDMV VISION

The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

5. TxDMV VALUES

To earn the trust and faith of all citizens of Texas with transparency, efficiency, excellence, accountability, and putting stakeholders first.

- 5.1. **Transparency** – Being open and inclusive in all we do.
- 5.2. **Efficiency** – Being good stewards of state resources by providing products and services in the most cost-effective manner possible.
- 5.3. **Excellence** – Working diligently to achieve the highest standards.
- 5.4. **Accountability** – Accepting responsibility for all we do, collectively and as individuals.
- 5.5. **Stakeholders** – Putting customers and stakeholders first, always.

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 stakeholder 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 – Optimized Services and Innovation

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

Examine 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 activities 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.