

Texas Department of Insurance

State Fire Marshal's Office



Annual Report Regarding Findings in Conducting Inspections

TO THE GOVERNOR, LIEUTENANT GOVERNOR, SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND APPROPRIATE STANDING COMMITTEES OF THE LEGISLATURE

As required by Texas Government Code, Title 4, Section 417.0081 – Inspection of Certain State-Owned or State-Leased Buildings

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Austin, Texas

Introduction

Texas Government Code, Section 417.0081(c), requires the State Fire Marshal's Office (SFMO) to submit an annual report on fire safety in state-owned and state-leased buildings. This report satisfies that requirement.

The SFMO has been inspecting state properties for decades under the authority of Texas Government Code, Section 417. Most of this report will address the fire safety status of state-owned buildings, including SFMO inspections of the Capitol Complex, state hospitals, correctional facilities, and universities.

The Legislature amended Section 417 in 2011 to add state-leased buildings to the SFMO's responsibility. The new provisions became effective September 1, 2011. The addition of leased properties added more than 1,000 buildings, totaling approximately 10 million square feet, to the SFMO's responsibilities.

These new directives were part of the Sunset Commission recommendations in its Sunset Review of the Texas Department of Insurance, which administers the SFMO. These recommendations were prompted by a March 2007 fire in a leased office space in Houston that took the lives of two state employees and one other person. Fire investigators noted that the building did not meet fire safety requirements, which directly contributed to the fatalities.

The Sunset recommendations and the new legislation also directed the commissioner of insurance to create a rule establishing "guidelines for assigning potential fire safety risk" to state-owned and leased properties. The agency is developing a proposed rule establishing these guidelines. Because of the time needed to draft, publish, and adopt a rule, the SFMO began the leased-building inspection process before the actual adoption of a rule. The SFMO started inspections in October 2011.

The proposed assessment model sets out a variety of considerations or risk factors that can affect the occurrence of fire (frequency and number of fires) and the loss (casualties and dollar loss) from fire. The SFMO evaluates the risk factors during a fire safety inspection, and then categorizes them into more subjective detail after a fire inspection. The SFMO assesses what is adequate, what meets minimum standards, what is noncompliant, and what constitutes a dangerous condition.

State-Owned Buildings: Procedure

Working through a memorandum of understanding (MOU) with the Texas Facilities Commission (TFC) and the State Office of Risk Management (SORM), the SFMO inspects state buildings regularly and monitors fire safety improvements. Each agency assumes certain responsibilities through the MOU, and the agencies meet periodically to ensure ongoing cooperation and progress. The SFMO has also established a "University Advisory Group" made up of state university, college fire safety, risk management, and building officials. The advisory group meets quarterly to discuss campus safety and ongoing issues.

Although Section 417 of the Government Code grants the SFMO authority to inspect buildings “under the charge and control of the Texas Facilities Commission,” it is important to note that not all state-owned buildings are under the TFC’s control. The SFMO also inspects non-TFC controlled buildings. Some examples of these buildings include buildings housing the following agencies:

- Texas Department of Transportation
- Texas Department of Public Safety
- State Preservation Board
- Texas Historical Commission
- Texas Workforce Commission
- Teacher Retirement System
- Employees Retirement System
- Texas Parks and Wildlife
- Texas Forest Service
- State Universities
- Texas School for the Blind
- Texas School for the Deaf
- Texas Department of Criminal Justice
- Texas Juvenile Justice Department
- Texas Military Forces
- State Schools and State Hospitals

The SFMO schedules periodic inspections of TFC buildings and determines the frequency of inspections based on a building’s “relative risk.” A building’s relative risk considers a number of factors, including occupancy type; occupant load; building height; presence of fire protective features, such as fire alarm systems or fire sprinkler systems; and findings from previous SFMO inspections. For example, a facility that is used for sleeping or a large assembly space would have a higher relative risk than an office building. The SFMO would inspect a high-rise structure more frequently than a facility that is only one or two stories tall, and would inspect a facility that is known to have numerous identified hazards, based on previous inspections, more frequently than a building with an exceptional inspection record. The SFMO’s risk-ranking system assigns various weights to these factors to determine the relative risk to life safety.

After an inspection, SFMO provides reports to TFC and SORM. The SFMO also may provide a copy directly to the head of the agency occupying the buildings.

State-Owned Buildings: Findings

The following buildings, among others, have been identified as having potential risk based on the SFMO’s risk-ranking system:

- Lyndon B. Johnson Building
- William B. Travis Building
- Department of State Health Services, Tower Building
- William P. Hobby Building
- John H. Winters Building
- Robert D. Moreton Building
- Brown-Heatly Building
- Sam Houston Building
- Stephen F. Austin Building
- E.O. Thompson Building

These buildings have several common features and deficiencies that contribute to their elevated level of risk. Most of these buildings are high-rise structures with a large number of occupants. SFMO inspections have found numerous code violations in these buildings, including compromised fire barriers; improper locking systems that hinder entry and exit; and deficiencies in building fire alarms, fire sprinklers, and other fire suppression systems.

The timely correction of code violations in state-owned buildings has historically been a challenge. The most significant barriers preventing compliance have been:

- a lack of funding to correct the violation
- determining responsibility for correcting problems (for instance, TFC or the agency occupying the building).

The SFMO and TFC have been working to identify the deficiencies that cause the greatest risk. This helps TFC provide the highest level of life safety possible with the available funding. It also allows TFC to determine whether to seek special funding for specific high-priority needs.

State-Leased Buildings: Challenges

There are two primary sources of information available that can be used to calculate the relative risk level of buildings: general building information obtained from TFC, and previous SFMO inspection reports. Since the SFMO did not previously inspect leased facilities, information regarding state-leased buildings is limited to that in the TFC files. Unfortunately, the information from TFC only contains a leased space's location and square footage. The SFMO will continue to use its inspection reports to modify a building's risk factor.

SFMO inspection of leased buildings may create additional issues about jurisdiction. The majority of leased building space is located within a city's corporate limits. This could lead to concerns about jurisdiction and liability with local authorities.

In addition, local and SFMO inspections could potentially result in contradictory findings. The SFMO has adopted the NFPA 101, Life Safety Code (2009 Edition) as its standard for fire safety inspections. The Legislature directed cities to use the International Building Code, which incorporates the International Fire Code as the fire safety code.

As noted above, the new legislation added many more properties to be inspected. Completion of these inspections with current staffing creates a challenge for the SFMO. SFMO has developed a plan for addressing this challenge which includes prioritizing inspections.

Finally, there was a question about whether inspections of leased space should be limited to the space used by state agencies or if the inspections should include the entire building.

State-Leased Buildings: Implementation Procedures and Findings

Beginning October 2011, the SFMO began inspecting leased properties used by state employees. These inspections fulfill the requirement of the expanded Section 417 of the Government Code, and are conducted without a prior system of inspections in place.

The SFMO notified local fire officials about its new responsibilities to inspect leased buildings immediately after the Sunset Commission proposed these additional duties. Local authorities having jurisdiction (AHJs) have cooperated fully with the SFMO during this early inspection stage. The SFMO has limited its primary inspections to the actual leased space in a building. However, the SFMO inspects the building's fire protection systems, entries and exits, occupancy type, and number of occupants. The SFMO reviews all information about the risk factors in a building and will schedule inspections based on risk level.

TFC has agreed to advise the SFMO when a lease is being renewed, an agency is seeking new quarters, or when new space is needed. This allows the SFMO to inspect prospective properties before a lease is signed and will help determine a schedule for re-inspecting the buildings.

Enforcement of the Life Safety Code in leased spaces has been successful, due to the cooperation with local AHJs and effective follow up and correspondence from the TFC. Having the ability to enforce the Life Safety Code in state-owned buildings would make the SFMO's program more successful.

In addition to TFC's administration of its lease agreements (which include a requirement that all facilities meet local and SFMO codes), the enforcement tools available to local AHJs provide incentives for the building owners to quickly correct life safety deficiencies identified by SFMO inspections.

Summary

The SFMO is drafting rules to fulfill the new responsibilities resulting from the Sunset Commission's recommendations. It has begun inspections for leased buildings, and is using input from this process to identify issues that may need to be addressed in the rulemaking process.

The SFMO scheduled the inspection of TFC-owned facilities with priority to facilities that pose the greatest risk to life safety. Though SFMO staff have made great strides, achieving full compliance with fire and life safety standards continues to be a challenge. Numerous state buildings have major deficiencies with regard to essential life safety features.

Initial efforts in the inspection of spaces leased by TFC also have been successful. Early coordination with local AHJs, as well as cooperation from TFC, has led to an effective process for inspection of leased buildings and enforcement of the Life Safety Code. The SFMO is making progress on collecting the data and information it needs to perform a comprehensive risk-ranking program similar to the one used to schedule inspections for TFC-owned facilities. The SFMO collects most of this data during the inspection process and uses it to more effectively schedule subsequent inspections.

It is important to note the challenges with enforcing the Life Safety Code in state-owned buildings and correcting deficiencies in a timely manner. The SFMO has limited enforcement authority over state-owned buildings. Privately-owned buildings are subject to local building and fire ordinances and contractual obligations, whereas state-owned buildings are not. The SFMO continues to work with TFC, SORM, and occupying state agencies to make the most effective use of the resources available to ensure that state buildings are a safe environment for state employees and the public.