

## VII. Guide to Agency Programs

### A. Provide the following information at the beginning of each program description.

<b>Name of Program or Function</b>	Commissioner's Area
<b>Location/Division</b>	William P. Hobby, Jr. Bldg., Tower I, 5th and 13th Floors
<b>Contact Name</b>	Karen Phillips
<b>Actual Expenditures, FY 2006</b>	\$2,599,161.82
<b>Number of FTEs as of August 31, 2006</b>	40.6

### B. What is the objective of this program or function? Describe the major activities performed under this program.

#### Objectives

The objectives of the Commissioner's Area are to:

- provide executive leadership and policy direction to the Texas Department of Insurance;
- ensure that the agency's activities are compliant with all statutory and regulatory requirements and consistent with the agency's goals, objectives, purpose, and policies;
- ensure accountability and integrity of all areas of the agency;
- provide assistance and information in a responsive manner to the Legislature;
- provide information to the public and the media on matters and issues within the regulatory responsibilities of the agency;
- minimize formal and informal employee complaints, including harassment and discrimination complaints, by resolving manager-employee and employee-employee communications issues.

#### Major Activities

The Commissioner's Area includes the Commissioner of Insurance and executive support staff, the Chief of Staff, the Associate Commissioner of Public Affairs, the Employee Ombudsman and Ethics Advisor, the General Counsel and Chief Clerk's Office, Government Relations, Internal Audit, and the Public Information Office.

The Commissioner of Insurance, appointed by the Governor with the advice and consent of the Senate, is the agency's chief executive and administrative officer. As the agency's chief administrator, the Commissioner oversees agency regulatory functions, establishes agency operating procedures and enforces state insurance laws, which includes initiating disciplinary and legal actions against violators. As part of his regulatory duties, the Commissioner issues, reviews, regulates, and promulgates rates for various lines of insurance. The Commissioner adopts rules, implements new laws, and addresses problems in regulating companies and agents. He also coordinates all facets of public relations, communication, and tracking of emerging issues. In addition, the Commissioner appoints individuals to advisory boards and committees and oversees their operations. The Commissioner is supported by a small staff shown on TDI's organizational chart as public affairs and executive services.

The Chief of Staff leads a variety of agency-wide initiatives on behalf of the Commissioner. The Chief of Staff ensures that the agency complies with Government Code provisions enforced by oversight agencies such as the State Auditor's Office, the Comptroller of Public Accounts, the Texas Building and Procurement Commission, and the State Office of Risk Management. The Chief of Staff also coordinates executive communications and assists the Employee Ombudsman and Ethics Advisor in matters not

requiring the Commissioner's action. In addition, the Chief of Staff oversees Administrative Operations, which includes the agency's financial services, information technology services, human resources, purchasing and contract administration, and staff services divisions. (See Section VII for Administrative Operations.)

The Associate Commissioner of Public Affairs reports to the Commissioner. Primary responsibilities include advising the Commissioner, coordinating all facets of public relations and communication to ensure consistent messaging, public speaking, and representing the agency at events where strategic communication is required.

The Employee Ombudsman and Ethics Advisor provides an outlet for employees to discuss their concerns and problems in private. The Ombudsman also is charged with helping encourage positive communication between agency managers and employees; helping resolve workplace complaints, grievances, or disputes; helping agency employees with ethics questions; and assisting Human Resources with providing employee training, such as the state-mandated sexual harassment and discrimination classes.

The General Counsel/Chief Clerk serves as the Commissioner's legal adviser on both contested and non-contested cases and assists in developing rules, setting rates, and handling various appeals to the Commissioner, including appeals from decisions of boards and associations supervised by the Commissioner. In addition, the office coordinates matters involving contested case proceedings, policy issues, and rule-making; performs legal research; certifies rules for the agency; approves all bulletins issued by the agency and the Commissioner; and maintains records and proceedings involving Commissioner actions. The office also coordinates hearing notices and hearing scheduling with the State Office of Administrative Hearings (SOAH), along with providing a required court reporter for hearings. The General Counsel/Chief Clerk also maintains the Commissioner's agendas and bulletins and the Texas Administrative Code and manual rules posted on the agency website; approves and processes non-disciplinary and non-rate orders; maintains and prepares all contested-case hearing files (Official Administrative Record) and all other administrative hearing files of the Commissioner of Insurance or his delegate for archiving; and assists the Office of the Attorney General in related appeals filed in district court.

Government Relations is TDI's liaison with the Legislature and other governmental entities. Major responsibilities include: helping the Commissioner develop legislative recommendations for improving insurance regulation in Texas; reporting information regarding TDI activities and the insurance market to the Legislature; coordinating and tracking agency-wide responses to legislative and constituent inquiries; monitoring and analyzing legislation affecting the agency; updating agency staff on the status of legislation; coordinating the appearance of agency staff for testimony before various legislative committees; overseeing implementation of legislation; compiling and indexing all insurance and agency-related legislation for inclusion on TDI's website; and distributing requested information to legislators, committees, and other governmental entities. This office researches and reviews the appointment of persons to statutorily-created advisory committees and boards that assist TDI. Finally, Government Relations maintains consumer liaisons for insurance inquiries and for workers' compensation inquiries.

Internal Audit provides an independent, objective quality assurance and consulting activity designed to improve an organization's operations. Internal Audit helps the agency accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management and agency processes. Major quality assurance and consulting activities are included in annual reports. Quality assurance services include objective and independent examinations, such as financial, compliance, economy and efficiency, effectiveness, investigations, and information technology

engagements. Internal Audit also provides consulting services. Consulting services are advisory in nature, and the scope is agreed upon with the client and intended to improve an organization's governance, risk management, and control processes. Examples include counsel, advice, facilitation, and training.

The objective of the Public Information Office (PIO) is to provide the media and the public at large – both consumers and insurers – with accurate information about insurance, the insurance market, and the regulatory activities of TDI. As the agency's primary contact with the media, this office researches, writes, edits, and distributes news releases announcing agency actions; conducts and coordinates interviews with the media; assists the Commissioner in drafting articles and consumer columns for various publications; and responds to information requests from the media.

PIO provides several services to agency staff. For example, PIO establishes website standards and provides graphics and printing services to the agency; monitors and clips news articles from all major Texas newspapers and from several national newspapers that provide insurance-related news; meets the agency's needs for web audio broadcasts; produces TDI's employee newsletter, *The Bulletin Board*; and coordinates and provides taped and live radio and television interviews. PIO writes and oversees production of radio and television public service announcements, and arranges media support for agency officials conducting events such as public hearings and town hall meetings.

PIO assists outside entities by responding to news-related inquiries from regulators, legislators, consumers, agents, and insurance company personnel; coordinates writing and editing of TDI's Annual Report to the Governor and Legislature; produces TDI's regulatory newsletter, *TDInSight*; and designs and updates the agency's websites, [www.tdi.state.tx.us](http://www.tdi.state.tx.us), [www.helpinsure.com](http://www.helpinsure.com), and [www.texashealthoptions.com](http://www.texashealthoptions.com).

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.**

The evidence of effectiveness and efficiency for the Commissioner's Area is presented below.

The counseling and training offered by the Employee Ombudsman and Ethics Advisor contributes to the agency's scores on the biennial Survey of Organizational Excellence, which measures the effectiveness of the agency's internal communications, teamwork, supervision of employees, and stress management. Additionally, the Ombudsman offers an informal mechanism for resolving employee concerns, which mitigates potential litigation regarding personnel matters. In FY 2006, the Ombudsman traveled to all Division of Workers' Compensation (DWC) field offices to conduct orientation, sexual harassment and discrimination classes. The Ombudsman also met and consulted with agency executive management and division heads regarding the Survey of Organizational Excellence and Ethics Survey.

The activities of the General Counsel/Chief Clerk's Office help mitigate lawsuits against the agency by providing the Commissioner with appropriate legal advice, including statutorily-created entities' rate proceedings. In FY 2006 the office reviewed, briefed, and advised the Commissioner on:

- 53 contested cases heard by SOAH
- 31 hearings and public meetings conducted by the Commissioner
- 13 appeals of Texas Windstorm Insurance Association decisions
- 37 new, repealed, or amended Texas Administrative Code (TAC) rules proposed and adopted
- 260 consent orders

- 96 default orders
- 42 contested orders.

Government Relations plays a key role in implementing the legislation that impacts TDI. In FY 2006, GR tracked, coordinated, and published to the website implementation activities of 126 insurance-related bills passed during the 79th Legislative Session (2005), which resulted in approximately 302 implementation items for TDI. In addition, the office co-managed implementation of Senate Bill (SB) 1670 (79th Legislature, Regular Session, 2005), among implementing agencies and working group members. SB 1670 added Subchapter N to Chapter 601 of the Transportation Code, which requires TDI, in consultation with the Texas Department of Public Safety, the Texas Department of Transportation, and the Texas Department of Information Resources to establish a program for verification of whether owners of motor vehicles have established financial responsibility. Additionally, Government Relations assisted agency staff with implementation of House Bill (HB) 7 (79th Legislature, Regular Session), with special focus on administrative consolidation of the former Texas Workers' Compensation Commission into the TDI Division of Workers' Compensation, rule development, and coordination of ongoing transition decisions.

The audits conducted by TDI's Internal Audit Division assist the agency with ensuring that best practices are used throughout the agency. Each fiscal year the division sets the following goals:

- Complete 80 percent of the scheduled Audit Plan projects
- Spend a minimum of 75 percent of total hours available on direct audit or consulting work
- Obtain management acceptance of 95 percent of audit issues and/or recommendations
- Obtain management satisfaction on at least 80 percent of audit assurance and consulting activities
- Complete development and approval of the Annual Audit Plan by the end of September
- Complete the Annual Internal Audit Report in accordance with Texas Government Code Section 2102.008 by the first of November.

TDI's Public Information Office is integral to communicating with the media and the agency's customers. In FY 2006, PIO completed the following activities.

- Published 6 bimonthly issues of *TDInsight*, providing industry stakeholders and policymakers with timely information on key issues and regulatory actions, in a readable, visually interesting format;
- Issued 46 press releases, covering agency response to Hurricanes Katrina and Rita, the insolvency of Vesta/Texas Select, enforcement actions taken against Texas insurance agents and agencies, fraud alerts, market conditions, among others;
- Facilitated 23 statewide events for the Commissioner;
- Responded to 436 media calls and interview requests;
- Implemented Collage content management software for TDI's websites to allow automation of routine maintenance and audit/recovery capabilities;
- Created website/intranet site for Office of Injured Employee Counsel (OIEC);
- Enhanced TDI web presence by improving online search function, implementing more precise online translation software, and creating automatic e-mail notices;
- Joined with representatives from the Red Cross, Federal Emergency Management Agency, and Insurance Council of Texas on tour of coastal media markets to speak with media and civic groups regarding hurricane preparedness;
- Participated in Health Coverage Awareness and Education Task Force and Workers' Compensation Networks Communication Team;
- Provided print design and media presentation at Juvenile Firesetter Intervention Program conference sponsored by the State Fire Marshal's Office;

- Provided live and archived audio broadcasts of public hearings via the Internet.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

**1995** - Creation of Employee Ombudsman and Ethics Advisor position to assist employees at all levels in resolving problems related to their jobs without having to file a formal complaint. The Ombudsman reports directly to the Chief of Staff, with direct access to the Commissioner as the Ombudsman deems appropriate. In 1995, the role of the Ombudsman was expanded to include the added responsibility of serving as the agency's Ethics Advisor and conducting management training at the agency.

**2006** - TDI enhanced its internal fraud prevention efforts by developing a comprehensive fraud prevention program that included the development of a fraud prevention manual and the formation of an agency fraud panel, which is comprised of the Chief of Staff, Director of the Fraud Unit, Director of Internal Audit, Employee Ombudsman and Ethics Advisor and Agency Counsel. The fraud panel reviews all allegations of internal fraud, waste or abuse of TDI resources and determines the appropriate action.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The Commissioner's Area affects insurance companies, agents and adjusters; consumers; media entities; members of the Legislature and their staff; and agency staff. These affected groups include:

- 2,437 insurers and various other types of insurance-related entities
- 347,830 agents and adjusters licensed to do business in Texas
- 23,507,783 consumers (2006 U.S. Census) in Texas
- 1,059 newspaper and other media correspondents in Texas
- 181 Texas legislators and their staff
- 1,627.1 full-time equivalent (FTE) agency staff as of August 31, 2006.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.**

The Chief of Staff conducts an executive staff meeting at least monthly. The Commissioner of Insurance communicates with the Commissioner of Workers' Compensation several times weekly and with agency program directors on a defined schedule, and with managers in the Commissioner's Area as needed. Each program head that directly reports to the Commissioner of Insurance maintains a project tracking list as requested by the Commissioner and provides bi-weekly or monthly written reports for the other members of executive staff.

The Commissioner initiated a monthly meeting of "deputies," managers who report to Senior Associate and Associate Commissioners. The Deputy Commissioner for Human Resources coordinates the meetings, and the programs rotate responsibility for facilitating the meetings. The meeting provides an opportunity for all agency managers to share ideas and dilemmas with a variety of other agency managers outside of executive staff and personnel who report directly to the Commissioner.

The Commissioner receives monthly reports from the General Counsel/Chief Clerk, including information about:

- pending SOAH enforcement hearings
- non-rules hearings
- status of rules in development.

The Commissioner also receives monthly reports from the agency's Chief Financial Officer and the Deputy Commissioner for Human Resources regarding agency funding issues, performance measures, and workforce statistics.

Finally, the Commissioner has initiated a quarterly market trends report that is prepared by a cross-section of agency experts, which is chaired by the Financial Program's Associate Commissioner.

The Commissioner promotes cross-divisional communication channels within the agency to improve operations and coordination among agency programs. Ultimately the goal is to enhance strategic planning and adaptability to changing times and market conditions.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

**H. Identify any programs, internal or external to your agency that provide identical or similar services or functions. Describe the similarities and differences.**

### **General Counsel / Chief Clerk**

The Legal Services and Enforcement programs and the General Counsel all provide legal support to the agency. The General Counsel/Chief Clerk serves as the Commissioner's legal adviser on both contested and non-contested cases, reviews and certifies rules, reviews all Commissioner Orders for final approval, assigns bulletin numbers for each program area as necessary, maintains official records of SOAH cases and Commissioner dockets, provides court reporters services for hearings and transcripts when requested, and prepares Administrative Records for district court when the Office of the Attorney General requests records.

Pursuant to Chapter 31 of the Texas Insurance Code, the Commissioner is the Chief Executive and Chief Administrator of TDI. He is responsible for administering as well as enforcing the provisions of the Texas Insurance Code. In contested case matters, he is the final decision maker. As provided in Chapter 2001 of the Texas Government Code, the Commissioner may not engage in communications with any party involved in a contested case unless all parties are given notice and the opportunity to participate in the communication. The General Counsel serves as the Commissioner's legal advisor to ensure that decisions of the Commissioner as Chief Executive in contested case matters are not influenced by improper communications from the parties, including the Legal Services and Enforcement team of the agency.

In contrast, the Legal Services and Enforcement programs prepare drafts of proposed and adopted rules, initiate and prosecute cases with SOAH, and compile Commissioner Orders in non-contested case settings.

### **Government Relations**

All agency programs may respond to requests from the Legislature with advice and direction from Government Relations.

### **Internal Audit**

The State Auditor's Office (SAO) conducts similar functions to Internal Audit. The SAO serves under the legislative branch and reports to the Legislative Audit Committee. SAO performs statewide audits and has authority to conduct audits at all state agencies and institutions of higher education. It has a statewide risk assessment to determine the audit projects for its audit plan. Internal Audit performs audits of TDI operations and reports to the Commissioner of Insurance.

The reviews performed by the SAO and Internal Audit are similar. These may be financial, compliance, economy and efficiency, effectiveness, special request, or investigations. In addition, Internal Audit may assist management by performing advisory type services. Both the SAO and Internal Audit are required to follow professional auditing standards while carrying out their work.

### **Public Information Office**

Both the PIO and the Consumer Protection program provide a similar service of supplying information to the public.

The PIO receives inquiries from news-gathering organizations and other public and private publications that have questions about insurance issues or current events at TDI. The PIO then coordinates actions within the agency to provide an appropriate response. The PIO also prepares internal and external newsletters for distribution, coordinates TDI's Annual Report, assists the Commissioner's Office in developing speech materials, prepares press releases, and coordinates Internet activities.

In contrast, the Consumer Protection program is the primary point of contact for individual consumers with insurance questions or complaints about agents or companies. The Consumer Protection program also develops educational materials and presentations on insurance issues as they relate to consumers. These publications and brochures are available online and by request in hard copy.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

### **General Counsel / Chief Clerk**

The Legal Services program and the General Counsel coordinate memorandums of understanding (MOU) that are finalized between TDI and other state agencies and other entities, and distribute information regarding Commissioner Orders and contested cases to appropriate parties, which include Enforcement staff attorneys, SOAH administrative law judges, the legal counsel for the ordered respondent(s), and the ordered respondent(s).

The Legal Services program assists the programs of the agency to develop rule proposals and notices as are required and requested. The General Counsel advises Legal Services and other programs on preferred content of the rules, and reviews the rules prior to publication in the *Texas Register*.

The General Counsel provides legal counsel to the Commissioner. It is especially important that this function remain separate and distinct from the activities of the Enforcement Program as the

Commissioner is prohibited from discussing the substance of contested cases with any party, including Enforcement staff (Texas Government Code, Section 2001.061). Enforcement and the Office of General Counsel/Chief Clerk work together to establish and maintain procedures in contested cases.

### **Government Relations**

All programs within TDI are required to respond to legislative requests from elected officials and their staff. Any information provided in response to a legislative request is coordinated and communicated through Government Relations, which either responds directly or works with the programs to obtain and review the information to provide a uniform TDI response. Additionally, the programs are requested to make sure that Government Relations is notified and made aware of any legislative contacts. The programs are also instructed to direct requests for bill comments or resource information about legislation to Government Relations for handling. TDI acts as a resource for the Legislature, and Government Relations serves as TDI's liaison.

### **Internal Audit**

Internal Audit's Annual Audit Plan and copies of all completed projects are sent to the State Auditors Office (SAO). The SAO uses this information in its risk assessment to avoid duplication of work already performed or scheduled to be performed by Internal Audit. In addition, the SAO assigns a contact manager to each agency. Internal Audit maintains a working relationship with the SAO contact and communicates with the contact regarding TDI's Annual Audit Plan.

When the SAO performs audits at state agencies, it uses an MOU so the agencies being audited and the SAO know what is expected. Internal Audit is the liaison with the SAO on projects at TDI. This helps Internal Audit reduce duplication of future audits.

### **Public Information Office**

The PIO and the Consumer Protection program interact and coordinate to avoid duplication when media outlets have questions regarding consumer issues, when developing press release material about issues directly relating to consumer matters, and on distribution of educational materials beneficial to consumers or the insurance industry.

**J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.**

The Commissioner and/or Associate Commissioner of Public Affairs occasionally correspond or meet with local, regional, or federal officials regarding activities discussed in TDI's Self-Evaluation Report.

**K. If contracted expenditures are made through this program please provide:**

- the amount of those expenditures in fiscal year 2006;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

**L. What statutory changes could be made to assist this program in performing its functions? Explain.**

Not applicable.

**M. Provide any additional information needed to gain a preliminary understanding of the program or function.**

Not applicable.

**N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

**O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Not applicable.