VII. Guide to Agency Programs

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

Name of Program or Function	**Financial Program – General Management**
Location/Division	William P. Hobby Building, Tower III, 5th Floor
Contact Name	Danny Saenz, CFE, Associate Commissioner
Actual Expenditures, FY 2006	$438,402.77
Number of FTEs as of August 31, 2006	6

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

The Financial Program is the primary solvency guardian of the Texas insurance industry. Financial enforces solvency standards for insurance companies and related entities from the initial formation and licensure through subsequent surveillance activities to implementing regulatory interventions, as necessary. The Program's goal is to detect financial or hazardous concerns and take prompt action by applying available statutes, rules, and procedures to prevent solvency and consumer problems. Financial seeks to rehabilitate companies that fall short of solvency standards, and through a court-sanctioned receivership process, liquidate the few companies that cannot be rehabilitated.

Financial seeks to promote a fair, healthy and competitive market and protect policyholders by ensuring that insurance companies writing business in Texas maintain solvency requirements, by identifying suspected fraud, misrepresentation, and unfair practices.

The program's over-arching objective is to ensure that insurance companies are financially capable of paying claims to policyholders. Financial is responsible for oversight of four insurance guaranty associations, which also help protect policyholders and claimants from insolvent insurance companies.

Financial's responsibilities encompass over 2,435 insurance companies, health maintenance organizations (HMOs), and related entities licensed or otherwise eligible to operate in Texas. As reported on 2006 annual statements, these firms collected $88 billion in Texas premiums. Financial's core activities are organized in the following divisions: General Management; Company Licensing and Registration; Financial Analysis and Examinations[1]; Actuarial; Conservation; and Liquidation Oversight. A description of each follows.

General Management
General Management consists of the Financial Program Associate Commissioner, the Deputy Commissioner, the Special Advisor, the Office Manager, and support staff. General Management:

- manages the Financial Program and activities of its five divisions
- manages, tracks, and reports performance measures
- drafts the program business and strategic plans
- contributes to other agency reports, such as TDI's Annual Report
- administers the program budget.

[1] The Financial Program is engaged in restructuring that will result in Examinations and Financial Analysis being split, each led by a direct report to the Associate Commissioner.

Company Licensing and Registration (CL&R)

The Company Licensing and Registration Division is the gatekeeper of market entrants and participants. CL&R's primary goal is to protect consumers by ensuring that only financially healthy, well-managed, and trustworthy insurers are allowed to enter the Texas market and serve the insurance-buying public, which promotes availability of coverage and a competitive marketplace. The division accomplishes this goal by licensing insurance carriers operating in Texas and determining eligibility of surplus lines carriers.

CL&R includes the Early Warning unit, which supports agency-wide efforts to detect potentially troubled insurance companies quickly, and the Contract Administrator for the Financial Program, who coordinates contracting functions related to Special Deputy Receivers, contract examinations, contract actuaries, etc.

Financial Analysis and Examinations (FA&E)

The Financial Analysis and Examinations Division protects the insurance-buying public by ensuring that carriers remain financially sound and compliant with regulations and rules. Financial, actuarial, and market conduct activities are necessary to ensure a strong marketplace, protect against unfair or discriminatory market conduct practices, and initiate regulatory action through early detection of insurance companies operating in hazardous condition.

The Examination section, predominantly field-based with three field offices in Houston, Dallas, and San Antonio, conducts examinations of companies' books and records to verify statutory solvency and compliance with laws and regulations. A small number of staff are based in Austin.

The Market Conduct Examinations section performs unique examinations that review how insurers operate with respect to customers. The purpose of market regulation is to assess how well the market is doing as a whole, and how well individual companies within the market are meeting consumers' needs.

Financial Analysis staff are located in Austin. Staff monitor the current financial condition of licensed companies through review of quarterly and annual financial statement filings. They review and approval of holding company and reinsurance transactions.

Actuarial

The Actuarial Division coordinates with the FA&E Division to perform actuarial examinations of insurers to determine the adequacy of reserves and compliance with Texas requirements. The division supports solvency monitoring with these examinations and by providing actuarial input and analysis to other divisions regarding financially troubled companies.

Conservation of Companies

Conservation of Companies protects the public and marketplace from companies operating in hazardous condition through on-site interventions and seeks to rehabilitate those companies by directing them to develop and implement corrective action plans to cure the hazardous condition and comply with applicable laws and regulations. Conservation of Companies provides supervision and conservatorship services, which are two of the strongest measures available to the Commissioner for rehabilitating insurance companies in hazardous financial condition and protecting company assets in the interests of policyholders and insurance guaranty fund associations.

Liquidation Oversight
Liquidation Oversight assists the Commissioner as receiver, whose fiduciary duty is to protect policyholder interests and the public by marshalling assets, minimizing expenses and making equitable distributions to rightful claimants of insolvent estates. Liquidation Oversight also oversees insurance guaranty associations to maximize coordination between all parties involved in liquidations and transition claims processing and payment of claims of financially impaired carriers.

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.

Texas has been nationally and internationally recognized for having a premier financial solvency and surveillance operation.

- Staff have been selected to travel to foreign countries to share solvency monitoring expertise.
- The Financial Program has been nationally accredited for the past 12 years.
- Financial participates in a joint United States-European Union project for solvency information sharing.
- Staff provided leadership at the National Association of Insurance Commissioners (NAIC) level for development of Statutory Accounting Practices and Procedures, early warning, actuarial issues, and Uniform Certificate of Authority Application process that were designed to allow insurers to file copies of the same application for admission in numerous states, etc.
- TDI is a member of the Interstate Insurance Product Regulation Commission. The commission enables state regulators to develop uniform national standards for asset protection insurance products, such as life insurance, annuities, disability income, and long-term care insurance. The commission establishes a central filing point for these insurance products, enhancing the speed and efficiency of regulatory decisions and allowing companies to compete more effectively in the modern financial marketplace while continuing to provide protection for consumers.

The Financial Program has been on the forefront of insolvency regulation. Texas was the first state to adopt the Receivership Model Act. Texas began the early access distribution concept, now a national norm, where receivership estate funds are transferred to the insurance guaranty association for policyholder claims payments.

General Management has developed regulatory templates that provide the industry with the program's expectations for various required filings or activities and examples of issues that invite additional scrutiny. The current topics include Business Plans, Management Fitness and Competency, Management Service Agreements and Reinsurance, and Financial Condition of an Acquiring Party, which are included on the TDI website. Future topics include Internal Controls, Market Conduct Actions, Regulatory Intervention Abatement Requirements, Coordination with Guaranty Associations, and Regulatory Compliance for Self-Insured Groups.

The Financial Program performance measures demonstrating program effectiveness appear in each division's Section VII response.

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.

1991 - HB 62 (72nd Legislature, 2nd Called Session) privatized the Liquidation Division of the State Board of Insurance. As a result, the Liquidation Oversight Division was created to monitor the contracting of Special Deputy Receivers to administer receiverships.

1994 - Financial Program added conservation functions. The Conservation Division was moved to the Financial Program from the Commissioner's Office.

1996 - Liquidation Oversight Division was moved to the Financial Program. Financial Examinations developed an in-house Oracle database system to manage examination scheduling and billing, capture historical results of examinations, and provide enhanced reporting capabilities.

1999 - Financial Program created the new Company Licensing and Registration Division (CL&R) comprising Insurer Services, Early Warning, and Contract Administrator Divisions and developed a web page to assist the industry with licensure requirements and follow-up compliance requirements.

2000 - CL&R streamlined the licensing process as a Uniform Certificate of Authority Application (UCAA) Member State of NAIC. The Financial Monitoring Division and the Examinations Division were merged into the Financial Analysis and Examinations Division. FA&E implemented the use of ACL software to perform computerized audit and analysis of large populations of data obtained from examined companies. Previously, the data could only be audited through selective sampling, while ACL allows for 100 percent re-test or analysis of the data.

2001 - Liquidation Oversight closed the Records Center, which housed receivership records, transferred responsibility of maintaining receivership records to the Special Deputy Receivers, and instituted a new records retention schedule.

2003 - Adopted rules to implement HB 2095, 78th Legislature and began licensing workers' compensation self-insured groups. Financial Examinations implemented the use of TeamMate, which allows examiners in both FA& E and Actuarial to conduct paperless examinations.

2005 - Market Conduct Surveillance Act, SB 14, 79th Texas Legislature, created uniformity of market conduct examinations based on guidelines developed and adopted by the NAIC, designed to be used by market conduct surveillance personnel in conducting examinations. Through legislation passed by the 79th Legislature, Texas Insurance Code, Chapter 21A, receiverships became a regulatory tool for the Financial Program for the purpose of rehabilitation.

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 Financial Program oversees the licensing and financial regulation of over 2,435 insurers and various other types of insurance-related entities. Financial's regulatory activities directly and indirectly affect all policyholders, claimants, and other individuals/businesses who are consumers of insurance products. All risk-bearing entities doing the "business of insurance" in Texas are required to be licensed or registered by TDI and must meet minimum financial statutory requirements.

The following table itemizes the types of entities subject to some degree of licensing and regulation by the Financial Program as of December 31, 2006.

Detail Regulated Company Report						
	December 31, 2005			**December 31, 2006**		
	Texas	**Foreign**	**Total**	**Texas**	**Foreign**	**Total**
Mutual Life Insurance Companies	3	40	43	3	39	42
Stock Life Insurance Companies	120	488	608	115	482	597
Stipulated Premium Companies	34	0	34	33	0	33
Non-Profit Life Companies	3	0	3	2	0	2
Stock Fire Insurance Companies	2	5	7	2	4	6
Mutual Fire & Casualty Companies	5	53	58	5	56	61
Stock Fire & Casualty Companies	100	666	766	106	665	771
Stock Casualty Companies	9	138	147	8	147	155
Mexican Casualty Companies	0	11	11	0	11	11
Lloyds	63	0	63	60	0	60
Reciprocal Exchanges	10	15	25	9	15	24
Joint Underwriting Associations	3	3	6	3	3	6
Risk Retention Groups	2	0	2	2	0	2
County Mutuals	24	0	24	24	0	24
Fraternal Benefit Societies	8	24	32	8	24	32
Title Insurance Companies	4	28	32	4	28	32
Non-Profit Legal Services Corps.	3	0	3	3	0	3
Health Maintenance Organizations	49	3	52	50	4	54
Local Mutual Aid	3	0	3	3	0	3
Local Mutual Burial	2	0	2	2	0	2
Exempt Associations	9	0	9	9	0	9
Farm Mutuals	17	0	17	17	0	17
Continuing Care Retirement	20	4	24	21	4	25
Multiple Employer Welfare Assoc.	6	0	6	6	0	6
Workers’ Comp. Self Ins. Groups	0	7	7	0	8	8
Foreign Surplus Lines	0	122	122	0	126	126
Alien Surplus Lines	0	41	41	0	45	45
Foreign Risk Retention	0	83	83	0	96	96
Accredited and Trusteed Reinsurers	0	185	185	0	185	185
Total	**499**	**1,916**	**2,415**	**495**	**1, 942**	**2,437**

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 Financial Program operates under the leadership of an Associate Commissioner. The leaders of the program's functional divisions report directly to the Associate Commissioner and are responsible for each division's management in accordance with TDI's mission and legal mandates. Program staff work in Austin and from field offices located in the Dallas, Houston, and San Antonio. The Financial Program's organizational chart is provided as an attachment to the TDI Self-Evaluation Report.

The Financial Program regulates insurers "from the cradle to the grave." Financial's activities affect insurers from incorporation and licensure, through regular check-ups via examinations, treatment of hazardous financial conditions via rehabilitation, to the time of liquidation should the insurer's problems prove to be incurable. The following table provides a very broad outline of Financial's activities throughout the life of a regulated company.

Division	New Authority to Operate	Active Market Participation	Withdrawal or Liquidation
Company Licensing & Registration	New certificates of authority for admitted and non-admitted market	Amended certificates of authority for admitted and non-admitted market	Review/approval of withdrawal plans; Canceling certificates of authority
Financial Analysis & Examinations	Approval for acquisition of Texas insurers (FA); Qualifying examinations for newly authorized insurers (Exams)	Financial Reviews (FA); Approval of financial transactions (FA); 1-5 year interval statutory examinations (Exams); Target examinations (Exams)	Not applicable
Actuarial	Not applicable	Examination of reserves Review of actuarial opinions	Not applicable
Conservation	Not applicable	Supervision and conservation of troubled companies Monitoring foreign rehabilitations	Not applicable
Liquidation Oversight	Not applicable	Not applicable	Special Deputy Receiver process

Like all TDI programs and divisions, the Financial Program operates under agency-wide general instructions embodied in the agency's *Personnel Manual; Operations Manual; Computer Security Manual; Open Records Manual;* and *Health, Safety and Risk Management Manual*. The Program follows procedures for *Identification and Rehabilitation Planning for Troubled Companies*. Financial's functional divisions utilize other sources of guidance, as described below.

CL&R
Procedures for the licensing and regulation of insurers and other specific entities are described in detail in the Texas Insurance Code, Texas Administrative Code, and specific licensing forms and instructional publications produced by the Financial Program. Most of the applicable information is available to the industry and to the public on TDI's website.

FA&E
FA&E conducts analysis and examinations in accordance with the Texas Insurance Code, Texas Administrative Code, NAIC *Financial Conditions Examiners Handbook*, NAIC *Financial Analysis Handbook*, NAIC *Market Conduct Examiners Handbook*, NAIC *Accounting Practices and Procedures Manual*, NAIC *Quarterly and Annual Statement Instructions,* and numerous internal procedure memoranda. Many of these guidance resources contain detailed descriptions of processes as well as flow charts and other descriptive materials.

Actuarial
In addition to the sources listed above for FA&E, Actuarial uses manuals and procedures including laws and regulations regarding reserves, *Actuarial Standards of Practice, Actuarial Guidelines*, internal functional procedures, and *Insurance Services Office's (ISO) Technical Analysis* report.

Conservation of Companies
Conservation of Companies utilizes all of the above-listed sources, the NAIC *Troubled Company Handbook* and the TDI *Conservation of Companies Field Procedures Manual*.

Liquidation Oversight
Liquidation Oversight utilizes the Texas Insurance Code, Texas Administrative Code, and various manuals and procedure memoranda, including *Liquidation Oversight Procedures*, the *Liquidation Oversight Analyst Manual*, the *Special Deputy Receiver Orientation Manual,* and the *Guaranty Association Board Member Orientation Manual*.

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.

Liquidation Oversight Division salaries and expenses are allocated to open receiverships based on a formula and are paid by the receivership estates. The operation of the Liquidation Oversight Division has no impact on the General Revenue Fund.

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

Insurance Regulation
Each U.S. state and territory and the District of Columbia has an equivalent division similar to the Financial Program that focuses on maintaining and enforcing standards for financial solvency and market conduct of their respective domiciled or chartered insurance companies.

Regulation of Other Financial Institutions
Certain types of financial institutions are regulated in accordance with state and federal law. For example, insurance sales transactions performed by banks, securities dealers, and stock exchanges are regulated to protect the public and enforce fiduciary standards.

Regulation of Certain Entities
Certain types of entities such as multiple employer welfare arrangements (MEWAs) and entities offering products such as Medicare, Medicaid, Employee Retirement Income Security Act (ERISA), employee leasing arrangements, and publicly traded holding company transactions are subject to both federal and state laws.

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.

Insurance Regulation
The Financial Program works closely with regulators in other states, either directly or through NAIC efforts, to avoid duplication of effort and achieve uniformity of regulation from state to state. Texas has been a leader in moving the NAIC forward to meet the challenges facing the industry and the economy in general.

Other states, working with or through the NAIC, provide the following services:

- coordination of financial and market conduct examinations of insurers operating in multiple states
- sharing insurers' information through meetings and Financial Analysis Working Group conference calls
- drafting model laws and regulations for adoption by states to provide uniformity of regulation
- developing uniform formats (blanks) for financial statements
- researching regulatory issues through working groups and NAIC's research staff
- providing nationwide databases of financial data, complaint information, securities valuations, and records of disciplinary actions against insurers and related entities
- developing and providing software to regulators to assist in performance of duties
- providing training to regulatory staff
- developing publications such as compilations of statistics on a national or state-by-state basis.

Regulation of other Financial Institutions/Entities
The Financial Program works with other regulators as needed, coordinating efforts to avoid duplication and share necessary information. Some examples include:

- Texas Department of Banking, coordinate efforts for holding company transactions and Gramm-Leach-Bliley Act Compliance
- United States Department of Labor, coordinate regarding MEWAs and employee leasing arrangements
- United States Securities and Exchange Commission, coordinate holding company transactions
- Center for Medicare and Medicaid Services, coordinate Medicare issues
- Health and Human Services Commission, coordinate Medicaid issues
- Office of the Attorney General, coordinate on licensing issues (e.g. medical discount programs).

The Program has information sharing agreements with the following entities:

- Texas Department of Banking
- Texas State Securities Board
- Texas Savings & Loan Department
- Consumer Credit Commissioner
- Texas Credit Union Department
- Office of Thrift Supervision
- Financial Services Authority (England's regulator)
- Office of the Comptroller of the Currency
- Federal Deposit Insurance Corporation
- Federal Reserve.

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 Financial Program does not have any ongoing activities with local units of government. The program does, on an ad hoc basis, work with local government entities to answer inquiries and provide information and statistics about insurers, bonding companies and other entities that may do business with local governments. Additionally, the program coordinates with state and federal governments as described in Section VII.I above.

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.

Financial identified possible statutory changes in the TDI Biennial Report to the 80th Legislature, which resulted in the proposal of two bills during the 80th Legislature's Conference Session:

Risk Based Capital (RBC)
Current law does not authorize the Commissioner to apply RBC requirements to county mutual insurance companies and Lloyd's plans. County mutual companies hold nearly 45 percent of the private passenger automobile insurance market and Lloyd's plans hold 76 percent of the homeowners insurance market in Texas. Although exempt insurers are exposed to the exact same risks that resulted in the application of RBC to competitors, they enjoy an unfair advantage by being subject to substantially lower capital requirements. Since the unpaid claims of insolvent insurers result in tax credits that reduce premium tax collections, exempting these companies from RBC exposes the state's general revenue should these exempt insurers become insolvent.

HB 2191, 80th Legislature, Conference Session, amended Section 822.205 to subject previously exempt insurance companies to RBC requirements that the commissioner may adopt by rule under Section

822.210 of the Insurance Code. The bill proposed a transition period to allow impacted insurers a phase-in period to comply with RBC requirements and avoid unintended impacts to the market and affected insurance companies. The bill further required the commissioner of insurance to adopt requirements for certain niche carriers and require these carriers to file a plan with TDI that reflects how compliance with the requirements will be achieved over a 10-year transition period. The House Insurance Committee of the 80th Legislature approved CSHB 2191, but the bill did not make it to the House floor for reading.

Clarification of Investment Statutes
TDI's application of Articles 3.33 and 3.41 to foreign (non-domestic) insurers has been challenged. The division suggests clarifying the applicability of Texas Insurance Code, Article 3.41, investment limitations to non-domestic insurers. The division further suggests that the Commissioner be allowed, after notice and hearing, to issue an order that includes one of several remedial actions regarding an insurer's financial condition, including the added remedy of rectifying "an asset deficiency as a result of the insurer holding an investment that is not of the same type, quality, character or class of investment authorized under this code." Such an amendment would provide greater protection to Texas consumers against the threat of a foreign insurance company's insolvency and safeguard domestic insurers and the state's general revenue.

HB 2550, 80th Legislature, Conference Session, amended Sections 404.001 and 404.003 of the Texas Insurance Code to specify applicability to foreign companies, to specify hearings before the commissioner regarding an order to remedy a financial condition, and to include a specific remedy of rectifying an asset deficiency that is not of the same type, quality, character, or class of investment authorized under the Texas Insurance Code. The House Insurance Committee approved CSHB 2550 but the bill did not make it to the House floor for reading.

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

Texas is unique in that TDI may intervene by administrative procedure in the operations of an insurer that is deemed hazardous to policyholders. Other states are limited to intervention through the court system. The administrative procedures provide TDI with the ability to take action against a company *ex parte.*

Regulatory intervention is initiated by the "Recommendation Committee" (RECO) after consideration of any regulatory concerns. RECO interventions are generated by all areas within Financial and include participation from all programs within TDI. The goal of a RECO intervention is to confirm the causes of the problems, assist the company in development of a business plan to address those problems, and to monitor the company's action steps to implement the plan. Before an entity is released from regulatory intervention, Financial ensures that all concerns have been addressed through coordination of the Rehabilitation Planning Team, comprising representatives from across the agency.

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.**

Why the regulation is needed:
Initial licensing of insurers and other entities ensures that only qualified, viable companies are allowed to conduct business in Texas. This is the "gate keeper" role intended to ensure that troubled companies do not enter the Texas market. Ongoing solvency regulation assures that regulated entities maintain the financial resources needed to meet their contractual obligations to policyholders and claimants. Effective solvency regulation also protects an important source of revenue for the State of Texas, the various premium and maintenance taxes paid by regulated entities. Regulation of the market conduct of insurers through regularly scheduled and targeted examinations verifies insurers are operating in accordance with applicable laws and regulations. Prompt and effective rehabilitation of troubled companies protects the public from financial harm, the industry from unnecessary guaranty fund assessments, and the revenue stream of the State of Texas from undue interruption.

The scope of, and procedures for, inspections or audits of regulated entities:
Most insurers are required by law to file uniform financial statements with the Financial Program on a quarterly and annual basis. Most insurers are subject to an on-site examination to verify financial condition and compliance with market conduct requirements at least every five years.

Follow-up activities conducted when non-compliance is identified; sanctions available to the agency to ensure compliance:
To promote consistent regulation, the Financial Program coordinates management conferences with other TDI areas on issues resulting from examinations or financial analysis reviews. TDI established the Recommendation Committee to monitor troubled companies and communicate with other TDI staff as appropriate. The committee's purpose is to identify and evaluate regulatory concerns and formulate courses of action within the framework of the Texas Insurance Code, Texas Administrative Code, and other applicable law. These actions include:

- conferences with the company's management
- limited scope examinations
- administrative oversight
- Chapter 404.051-404.053 sanctions
- Chapter 83 cease and desist orders
- Chapter 404 hazardous condition orders
- Chapter 441 supervision and conservation
- Chapter 443 court rehabilitation
- Chapter 443 receivership.

In supervision, which is generally confidential and not disclosed to the public, a company's activities are closely monitored by the Financial Program to ensure that specified steps are taken to remedy the deficiencies that have been discovered. In conservation, Financial staff actually take over management of the subject company in an effort to turn the company around. If these steps fail, the Financial Program requests the Attorney General to petition the Travis County District Court for an order placing the company in receivership. The 79th Legislature became the first in the nation to pass adoption of the NAIC Model Receivership Act as Chapter 21A. This new law provides for rehabilitation through the court or traditional receivership for the purposes of liquidating the company's remaining assets for payment of claims and other debts, and for transfer of claims still outstanding to the appropriate guaranty fund (if any) for payment.

Procedures for handling consumer/public complaints against regulated entities:
Complaints against regulated entities are referred to TDI's Consumer Protection Program or other appropriate area for resolution.

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.

VII. Guide to Agency Programs

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

Name of Program or Function	Financial Program, Company Licensing and Registration
Location/Division	William P. Hobby Building, Tower III, 5th Floor
Contact Name	Godwin Ohaechesi, Director
Actual Expenditures, FY 2006	$986,125.31
Number of FTEs as of August 31, 2006	21.5

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

Company Licensing and Registration's (CL&R) objective is to assist in the development of a financially strong and competitive insurance market for the benefit and protection of Texas policyholders. CL&R is dedicated to licensing financially viable Texas insurance market entrants and regulating certain corporate activities with customer-service oriented processes and interactions.

The major activities performed by CL&R are as follows:

- incorporate and grant certificates of authority to new risk-bearing applicants seeking to be Texas-domiciled insurers
- grant expansion licenses to non-Texas insurers seeking to do business in Texas
- process corporate amendments (add/delete lines of business, mergers, re-domestications, change of name/address)
- register non-admitted insurers and related entities
- coordinate review of assumption reinsurance transactions
- dissolve insurance company charters
- cancel insurance company licenses
- maintain insurer charter documents
- update and maintain all company license, charter, and permit documents
- post licensure, including processing related transactions and statutory deposits
- monitor early warning system for early detection/intervention of financially troubled entities
- administer contracts for Financial Program, including Special Deputy Receivers.

Applicants seeking to operate in Texas include:

- insurance companies
- health maintenance organizations
- multiple employers welfare arrangements
- continuing care retirement communities
- workers' compensation self-insured groups
- surplus lines insurers
- risk retention groups
- purchasing groups.

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.

To evaluate its internal functions, CL&R administers an ongoing targeted survey that assesses companies' satisfaction with the company licensing process. The survey gathers information about the timeliness of the filing process and about staff customer service. CL&R has been gathering this information since 1995 and uses it to assess customer service and improve processes. Survey results for FY 2006 show that companies applying for new licenses or amending existing licenses rate CL&R services favorably, with an average overall satisfaction rating of 9.08 out of 10. The three year average is 9.1 out of 10.

The division's performance is also evidenced by the fact that CL&R consistently licenses new companies in less than the performance measure target of 60 days. The table below presents the past three fiscal years' performance.

New Companies Licensed in Texas			
	FY04	**FY05**	**FY06**
New applications received	38	65	58
New companies licensed	41	47	41
Applications withdrawn	3	10	8
Average number of days to license company	52	36	45

Additional performance measures demonstrating effectiveness are provided below.

1.1.2. Outcome 1 – Percent of company, third party administrator, and premium finance licenses completed within 60 days					
	FY 2002	**FY 2003**	**FY2004**	**FY 2005**	**FY 2006**
Actual Performance	100%	99%	99%	100%	96%
Annual Target	96%	96%	98%	98%	98%
Percentage of Target	104.02%	102.94%	100.99%	102.04%	97.96%
Analysis/ Variance Explanation	TPA and premium finance licenses included in this measure are reported by the Life, Health and Licensing Program; CL&R reports all other insurance company licenses.				

2.1.1. Outcome 5 – Percent of insurers meeting statutory or risk-based capital and surplus requirements					
	FY 2002	**FY 2003**	**FY2004**	**FY 2005**	**FY 2006**
Actual Performance	99%	99%	99%	99%	99%
Annual Target	97%	97%	97%	97%	97%
Percentage of Target	101.98%	102.09%	101.95%	102.42%	102.06%
Analysis/Variance Explanation	This number has remained high, but may vary from year to year due to company reorganizations, operational changes, market conditions fluctuations for investments, social reforms measures, etc.				

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.

History is presented in Section VII.D of the Financial Program General Management response.

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.

CL&R affects insurance companies, consumers, and other TDI programs.

- Companies = 2,437 insurers and various other types of insurance-related entities
- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas).

CL&R's early warning, contracting, and Company Information (COIN) activities affect other TDI divisions.

Insurance companies licensed, registered, or certified in Texas must submit an application to demonstrate they can meet the minimum statutory requirements to write business in Texas.

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.

CL&R is made up of three teams: admitted market, non-admitted market, and early warning/contract administration.

The admitted team handles:

- incorporation of Texas insurance companies
- admission of foreign insurance companies
- certification of workers' compensation self insurance groups
- amendment reviews to existing certificates of authority
- maintenance of statutory deposits (approximately $912 million on deposit as of August 31, 2006).

The non-admitted team is responsible for reviewing the eligibility of surplus lines insurers to do business in Texas and handles the registration of accredited/trusteed re-insurers, risk retention groups, and purchasing groups. The non-admitted team serves as TDI's liaison with the Surplus Lines Stamping Office of Texas (SLSOT).

The early warning/contract administration team helps coordinate solvency efforts on an agency-wide basis by collecting financial and non-financial information about insurers and holding companies, administers contracts with Special Deputy Receivers (SDRs) hired to liquidate insolvent insurance companies, and coordinates contracts involving examinations and other functions of the financial program.

The division maintains a comprehensive repository of checklists, forms and procedures. Each area of the division follows procedures set out for each task assigned. These documents are voluminous and are kept in a centralized directory which can be accessed by designated staff.

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 provides identical or similar services or functions. Describe the similarities and differences.

CL&R licenses or registers all risk-bearing entities regulated by TDI. TDI's Life, Health, and Licensing (LHL) Program administers workers' compensation networks, utilization review agents, independent review organizations, and insurance agents/producers. These entities/individuals do not bear risk.

The following entities perform licensing functions similar to those performed by CL&R:

- Secretary of State (SOS), which incorporates non-insurance companies
- Department of Licensing and Regulation (TDLR), which licenses professional employer organizations and for-profit pre-paid legal services
- Surplus Lines Stamping Office of Texas (SLSOT), which assists CL&R's non-admitted team in evaluating surplus lines insurers for eligibility, reviewing of surplus lines insurance policies, and educating insurers on surplus lines requirements in Texas. SLSOT is supervised by TDI and has no regulatory authority.

CL&R functions as a document custodian and regulator, verifying that licensed insurers are compliant with a highly regulated Texas insurance market. CL&R performs a comprehensive review of information filed, which includes a detailed analysis of financial statements submitted with an insurer application and coordination of background checks on an insurer's officers and directors.

In contrast, both SOS and TDLR serve as only document custodians, basically "stamping" the information as filed.

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.

Since CL&R focuses it efforts solely on risk-bearing entities, the division does not duplicate the functions of other TDI programs. CL&R coordinates with the LHL program on background checks and to evaluate the business plans and financial records of HMOs and workers' compensation health care networks.

Entities licensed under the SOS or TDLR are subject to standard bankruptcy laws; risk-bearing entities are subject to TDI financial impairment, receivership, and liquidation laws.

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.

CL&R works intermittingly with:

- Health and Human Services Commission for Medicaid issues
- Center for Medicare and Medicaid Services for Medicare issues
- Comptroller of Public Accounts on statutory deposits and surplus lines
- SLSOT for surplus lines issues
- other state insurance departments for status of multistate insurers.

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.

Single depository for statutory deposits
The current system is extremely inefficient as it allows insurers to deposit with authorized banks/trusts in any state. Staff has to maintain contact with hundreds of banks nationally and constantly re-establish bank relationships as bank employees change. All deposits should be kept with the Texas Comptroller (a trust company) or any other bank/trust company located in Texas.

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.**

The gatekeeping function is necessary to protect consumers by ensuring that only financially healthy, well-managed, and trustworthy insurers are allowed to enter the Texas market and serve the insurance-buying public, ensuring availability of coverage and a competitive marketplace. When noncompliance is identified, CL&R staff write deficiency letters to applicants explaining items that are needed to complete the filing. Sanctions available to the agency include closing a file as incomplete or denying the application. CL&R staff assist TDI's Consumer Protection and Enforcement programs in researching history of regulated entities that are the subjects of complaints.

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.

VII. Guide to Agency Programs

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

Name of Program or Function	Financial Program, Financial Analysis & Examinations
Location/Division	William P. Hobby Building, Tower III, 5th Floor Field Offices: Dallas, Houston, San Antonio
Contact Name	Doug Slape, Chief Analyst of Financial Analysis Tony Trevino, Chief Examiner
Actual Expenditures, FY 2006	$7,322,982.19
Number of FTEs as of August 31, 2006	121.1

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

The primary functions of Financial Analysis and Examinations (FA&E) include financial analysis, financial examinations, and market conduct examinations. The activities of each function are described below.

Financial Analysis
Staff monitors the financial condition of licensed insurance entities. Key financial analysis activities are as follows:

- review annual and interim financial statements, audited CPA reports, examination reports, reinsurance agreements, and other documents to determine financial condition of insurance companies, HMOs, and other licensed insurance entities
- prioritize companies for review based on set criteria such as, impairment of capital stock, change in policyholders' surplus, adverse loss development, net loss to surplus, knowledge of company operations, negative trends, and National Association of Insurance Commissioners (NAIC) priority
- analyze reinsurance arrangements to ensure compliance with statutes, rules, and proper accounting principles
- monitor reinsurance activity industry-wide and individually between insurance companies
- review filing extension requests for audited financial reports and filing requests for combined or consolidated audited financial reports
- review transactions encompassing approximately 500 domestic and commercially domiciled insurers subject to the Texas Insurance Holding Company Systems Act, including:

  - approval/disapproval of proposed acquisitions and exemptions from control
  - approval/disapproval of extraordinary dividends or distributions
  - assurance of compliance with statutory requirements for material transactions, i.e., investments of affiliates, loans, management/service agreements between affiliates, and
  - approval/disapproval of issuance/payments of surplus debentures.

Financial Examinations
Financial Examinations performs on-site financial and market conduct examinations of insurance companies, HMOs, and certain other regulated entities to determine financial condition and compliance with Texas laws. Examinations are conducted at statutorily mandated intervals of one to five years or through targeted examination as warranted. Examiners collect and analyze annual operations reports

filed by all licensed premium finance companies and coordinate the regulation and oversight of HMOs. Examiners work out of three field offices in Houston, Dallas, and San Antonio, and the TDI headquarters in Austin.

The objectives of the examinations function are as follows:

- Perform on-site financial and market conduct examinations on entities regulated by TDI to determine financial condition and compliance with Texas insurance laws. On-site examinations are extensive and comprehensive examination of insurance entities.
- Collect and analyze annual operation reports filed by all licensed premium finance companies.
- Coordinate with other agency divisions in the regulation and oversight of HMOs.
- Participate in NAIC working groups on consistent application of procedures for solvency and compliance regulation of insurance entities.

To carry out these objectives, examiners conduct on-site examinations of the books, records, and operations of over 500 insurance companies annually and target examinations “as needed” in response to potential regulatory concerns. Other entities subject to examination include insurance guaranty associations, premium finance companies, reinsurance intermediaries, managing general agents, and multiple employer welfare arrangements (MEWAs). Austin-based staff process field examination reports and work with companies to resolve findings of examinations, initiate referrals for regulatory or disciplinary action, and analyze premium finance annual operations reports.

Market Conduct Examinations

The purpose of market regulation is to protect consumers by identifying and correcting insurer operating practices that are in conflict with contract provisions, state laws, rules, regulations, or orders of the commissioner. Market conduct examinations are conducted as warranted given TDI concerns regarding the conduct of an entity. Market conduct examinations are performed on entities regulated by TDI, including life, accident and health, property and casualty, third-party administrators, statistical reporting agencies, affiliates, producers, and premium finance companies.

Staff conduct on-site market conduct examinations of books, records and operations of insurance companies based on:

- consumer complaint issues
- referrals from other divisions or national issues
- known or suspected behavior that is detrimental to insureds or the insurance buying public
- complaint trends and indicators within TDI and NAIC
- findings from other jurisdictions
- amount and type of business the company writes
- prior violations noted in examination reports and throughout TDI
- specific referrals from within TDI or the Financial Program.

The market conduct exams fall into three categories: comprehensive, limited scope, and compliance. Additionally, Market Conduct staff participate in NAIC multistate market conduct examinations.

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 division has met the national accreditation standards as established by NAIC. FA&E's performance measures demonstrate effectiveness, as evidenced below. FA&E embraces technology to efficiently administer key functions, and coordinates examination and monitoring activities with the NAIC and other state insurance departments. The division has educated and trained other countries' representatives on the regulation of insurance in Texas and the United States.

The NAIC accreditation process promotes the effectiveness and efficiency of the financial analysis and examinations process through the review of processes and institution of new procedures as a result of insurer reviews. Requirements include submission of comprehensive "annual interim review," which is a self-analysis of compliance with standards. Requirements also include visit by an Accreditation On-Site Review Team every five years, with a visit scheduled for 2007.

The objective of the accreditation program is to provide a process whereby solvency regulation of multi-state insurance companies can be enhanced and adequately monitored with emphasis on:

- adequate solvency laws and regulations in each accredited state to protect insurance consumers
- effective and efficient financial analysis and examination processes in each accredited state
- appropriate organizational and personnel practices in each accredited state.

2.1.1. Output 6 – Number of on-site examinations conducted					
	FY 2002	**FY 2003**	**FY2004**	**FY 2005**	**FY 2006**
Actual Performance	167	167	159	160	156
Annual Target	175	175	167	167	160
Percentage of Target	95.4%	95.4%	95.2%	95.8%	97.5%

2.1.1 Outcome 2 – Percent of identified companies reviewed					
	FY 2002	**FY 2003**	**FY2004**	**FY 2005**	**FY 2006**
Actual Performance	97%	97%	97%	99%	99%
Annual Target	99%	99%	99%	99%	100%
Percentage of Target	97.72%	97.53%	98.45%	99.98%	99%

FA&E uses a variety of automation tools to improve the effectiveness and efficiency of division processes. A comprehensive list of these automation tools is available for review. Key automation tools are described below.

- TeamMate is an audit management application used to perform and manage examinations in a paperless environment.
- An in-house developed Oracle database is used to manage scheduling and billing, capture historical results, and provide various reporting capabilities for examinations.
- ACL software is used to perform computerized audit and analysis of large populations of data obtained from examined companies.
- An NAIC I-SITE database generates market analysis reports and shares market related information among states.
- The Market Analysis Reporting Tracking System is used to identify companies warranting market conduct exams.
- The Market Conduct Bimonthly Reporting System is used to share information among TDI programs. FA&E requests information from other TDI programs to generate bimonthly early warning reports. Information included in the report considers complaints, company growth, and significant operational changes and is intended to identify at-risk companies.

- To better serve FA& E customers and improve processes, since 2005, TDI has accepted submission of various filings and reports electronically, such as insurer quarterly and annual financial statements.

FA&E participate in the Financial Analysis Working Group, which was created to support coordinated multistate efforts in addressing solvency problems. Staff review and comment on draft rules for the NAIC Accounting Practices and Procedures Manual, which guides independent accountants, industry accountants, and insurance department analysts and examiners on how to properly record business transactions for the purpose of accurate statutory reporting.

The NAIC's International Insurance Relations Committee was established to strengthen the international insurance regulatory system. The committee provides a forum for cooperative efforts between the NAIC, international regulators, and multinational associations of regulators on issues of mutual interest. The committee also provides support to the federal government on international trade issues related to insurance. The Financial Program has either participated or hosted the following countries or international cooperatives for the purpose of education and training on Texas and U.S. insurance regulatory issues and processes:

- Kazakhstan
- India
- China
- Estonia
- Brazil
- Caribbean Regional Technical Assistance Centre.

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.

History is presented in Section VII.D of the Financial Program General Management response.

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.

FA&E's solvency functions affect Texas domestic insurance companies. Policyholders are affected by having coverage with stable and solvent companies which supports the ability of the company to carry out its contractual obligations. Consumers in general are affected by having availability of coverage which is enhanced by having solvent companies willing to do business in a stable and competitive environment. Through the processes of financial analysis and examination of books and records, FA&E often confers with outside entities, which include:

- CPA firms
- computer vendors who provide IT services
- banks for confirmations of balances
- Office of the Attorney General (OAG) for any issues dealing with money laundering by insurance representatives
- District Attorney's Office for any issues dealing with fraudulent activities by insurers
- other states to share resources and work and to reduce cost and impact of examinations to industry
- NAIC.

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.

FA&E is being restructured. The Chief Examiner will lead Examinations and Market Conduct, and the Chief Analyst will lead Financial Analysis. Examinations are predominantly field-based, with three field offices in Houston, Dallas, and San Antonio; financial analysis is performed from the Austin headquarters.

FA&E uses an automated system to prioritize financial analysis reviews based on insurers' risk level. Prioritization criteria includes, impairment of capital stock, change in policyholders' surplus, adverse loss development, net loss to surplus, knowledge of company operations, negative trends, and NAIC priority. Financial analysis reviews are scheduled based on numerical rankings of one to three. A ranking of "one" is assigned when material financial/regulatory concerns exist. Companies ranked as priority one receive the most stringent analysis and may be targeted for more frequent review. To set the division's examination schedule, management considers a listing of companies which have reached the statutory maximum permitted interval since the last examination and the priority rankings of insurers.

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.

TDI's FA&E examinations focus on the financial solvency of insurers and other regulated entities. TDI's Health and Workers' Compensation Network Certification and Quality Assurance Division (HWCN) and Title Division also conduct compliance examinations. HWCN examinations focus on quality of care. The Title Division conducts compliance audits of title agents. Title may detect solvency problems with agents and then report those solvency problems to the Financial Program for possible rehabilitation or other action. Additionally, the Division of Workers' Compensation may coordinate with FA&E regarding market conduct of workers' compensation entities.

Other states conduct financial, actuarial, and market conduct examinations on their domiciled companies that may be licensed in Texas. TDI examination staff often participate in coordinated examinations with other states for review of Texas and non-Texas domestic insurance companies.

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.

HWCN conducts quality of care examinations on health maintenance organizations. Although financial, actuarial, and market conduct examinations do not look specifically at quality of care issues, findings of such examinations are often shared with the LHL Program through Recommendation Committee meetings.

States coordinate examinations of licensed companies through NAIC zone examinations. The lead state allocates workload, clarifies and coordinates each state's role and needs, and shares work papers and findings with each state.

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.

FA&E coordinates with other state insurance departments to conduct zone examinations. Additionally, the division communicates with examiners of other states regarding solvency issues. FA&E coordinates with federal regulatory agencies, i.e., Centers for Medicare and Medicaid Services, about solvency issues on troubled insurance companies.

The Financial Program has an MOU with the United States Department of Agriculture (USDA) regarding Texas licensed crop companies. USDA conducts examinations and communicates with TDI on findings.

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.

Following Hurricane Rita, the Financial Program participated in the agency effort to ensure companies appropriately responded to policyholders' claims. This process underscored the importance of ongoing disaster evaluations. Accordingly, on an annual basis, and more frequently as natural disasters require, the Financial Program conducts catastrophe evaluations as follows:

- identify and evaluate writers in designated catastrophe areas, taking into account market share, exposure, financial condition including but not limited to capitalization and reinsurance
- stress-test various points of landfall, penetrating at least two counties
- review other factors, such as self-reported disaster preparedness and physical location
- contact insurers with top exposure
- evaluate the need for regulatory action.

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.**

The examination of insurers is needed to protect policyholders from harm due to insurer insolvency. Texas Insurance Code, Section 401.051, provides the statutory authority to examine insurance entities. The scope depends on the type of examination – comprehensive or limited scope. Comprehensive examinations include reviews of all books and records applicable to the entities particular operations, while limited scope examinations focus on a particular issue, area or deficiency.

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.

VII. Guide to Agency Programs

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

Name of Program or Function	Financial Program, Actuarial Division
Location/Division	William P. Hobby Building, Tower III, 2nd Floor
Contact Name	Mike Boerner, Managing Actuary
Actual Expenditures, FY 2006	$1,075,264.83
Number of FTEs as of May 31, 2007	13

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

The Actuarial Division enforces reserve standards for insurance companies and related activities that support company solvency and fulfillment of contractual obligations to the consumer. To complement solvency enforcement, the division strives to provide effective, fair, consistent, and appropriate standards. Together, these objectives carry out the agency mission.

Actuarial's major activities are as follows:

- performs actuarial examinations of insurers to determine the adequacy of reserves and compliance with Texas requirements
- supports solvency monitoring by providing actuarial input and analysis to other divisions regarding financially troubled companies
- performs review of actuarial opinions and communicates results with financial analysts and others
- carries out actuarial analysis to support issuance of certificates of valuation as requested by domestic life insurance companies
- provides actuarial expertise in the review of mergers and acquisitions, reserve destrengthenings, exceptions to minimum statutory reserve requirements, reorganizations, assumption reinsurance, policy values, transfer of risk issues, and consumer's equity issues in policy forms
- makes ongoing efforts to keep reserve requirements up to date in Texas through promulgation of rules
- provides expertise to other TDI programs and divisions, as requested
- supports TDI goals by contributing to projects requiring actuarial involvement such as those involving legislative mandates
- provides instrumental participation in developing solvency and actuarial requirements through National Association of Insurance Commissioners (NAIC) and American Academy of Actuaries working groups.

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 Actuarial Division's core function is to conduct actuarial examinations of Texas domestic insurance companies and make recommendations on reserve items. The division has consistently met the performance measure target for the past five years. Achievement of this target has been supported by a number of tools and efforts including the use of TeamMate automation for actuarial examinations. TeamMate provides structure and consistency in examination steps and procedures during the course of examinations. Efforts to keep procedures current, meaningful, and effective along with continued discussions of procedures and examination issues also have helped the Actuarial Division meet this target.

2.1.1. Output 5 – Number of actuarial examinations completed					
	FY 2002	**FY 2003**	**FY2004**	**FY 2005**	**FY 2006**
Actual Performance	80	81	81	84	79
Annual Target	80	80	80	80	80
Percentage of Target	100%	101%	100%	105%	98.75%
Analysis/ Variance Explanation	This measure is linked to performance measure 2.1.1 output six, the number of on-site examinations conducted.				

In fiscal year 2006 the division reviewed 479 actuarial opinions and communicated results of all reviews to the respective financial analysts.

To support effective solvency requirements and support availability of coverage, the division provided significant contributions to the development of a model preferred mortality regulation which was recently adopted in Texas.

Evidence of the division's effectiveness include providing actuarial expertise on legislative issues, including the Military Sales Rule, standard valuation law, race-based rates, small face-amount life insurance issues, and nonforfeiture values in the Interstate Compact.

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.

History is presented in Section VII.D of the Financial Program General Management response.

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 Actuarial Division affects the following:

- Companies = 2,437 insurers and various other types of insurance-related entities
- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas).

Actuarial examinations of reserves to determine financial solvency affect Texas domestic insurance companies. The division verifies the companies' ability to meet contractual obligations to policyholders by validating the reserve calculations and assumptions. By offering a regulatory environment with reasonable requirements, such as the preferred mortality regulation, the division promotes solvency, which improves the availability of coverage to consumers.

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.

Actuarial's managing actuary oversees the division functions, whose core focus is the actuarial examination of reserves. The division employs an actuarial team leader for the life/health actuarial examinations and an actuarial team leader for the property/casualty actuarial examinations. Actuarial team leaders support the division manager in meeting the solvency objectives of actuarial examinations and performance measure requirements for actuarial examinations completed. Team leaders are responsible for assigning companies, reviewing workpapers, ensuring adequate coordination with other examiners and timely completion of examinations. The managing actuary and the team leaders are all accredited actuaries.

Actuaries complete rigorous training to become credentialed. The professional examination process takes many years of study; approximately 3,500 hours of study are not uncommon. Agency actuaries network internally and externally through professional actuarial organizations. Knowledge obtained in efforts to become credentialed coupled with internal and external professional networking directly benefits the agency's mission.

The division meets frequently to coordinate work and carry out ongoing review and improvement of work processes. A flow chart for the actuarial examination of reserves is available for review.

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 provides identical or similar services or functions. Describe the similarities and differences.

The division provides regulatory actuarial solvency analysis, which is not performed by other TDI programs. Related functions such as actuarial review for rate and form compliance are handled by actuaries in the agency in the Life, Health, and Licensing (LHL) and Property and Casualty (P&C) programs.

States which do not have financial actuaries contract with actuarial consulting firms for examination work. Contract actuarial firms perform work similar to that provided by the Actuarial Division; however, services are performed at a much higher cost and with work products that vary from firm to firm.

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.

The Actuarial Division's main focus on reserves and solvency does not overlap or conflict with other areas of the agency.

The four areas of actuarial application are depicted below, including the TDI area responsible for review. The quadrants show two types of actuarial review, reserve/solvency and rates and forms, which are categorized by line of insurance – life/health and property/casualty.

	Life/Health	**Property/Casualty**
Reserves/Solvency	Financial Program actuaries	Financial Program actuaries
Rates & Forms	Life, Health and Licensing Program actuaries	Property and Casualty Program actuaries

The Actuarial Division communicates with LHL and P&C to carry out solvency functions.

The Actuarial Division coordinates with the Life/Health area to provide input on policy forms when necessary. This interaction allows the Actuarial Division to be aware of unusual benefits or forms which may be encountered later in an actuarial examination of a company. The two divisions share relevant information on both reserves and rates/forms.

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 Actuarial Division coordinates with other state regulatory insurance entities while conducting zone examinations and on actuarial issues for solvency purposes.

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.

Eliminate the statutory requirement in Texas Insurance Code, Chapter 425.053, to issue certificates of valuation. The statute does not provide added value given the division's current solvency efforts. Processing certificates of valuation takes time away from focusing on solvency efforts and review of priority companies. The scope of the certificate of valuation is only on life reserves and not all of the company's reserves. The timing of the certificate of valuation is problematic because states desire it before meaningful analysis can be performed.

The division is working on the NAIC efforts to modify the corresponding Standard Valuation Law as part of the larger effort to change the way reserves are calculated for life and health insurance. The Legislature and the agency can adopt this and other valuation law changes when the models are completed.

Eliminate or modify the law imposing requirements regarding registered life business. This is an arcane law, that imposes administrative burdens and restrictive requirements on reserves and on the release of redundant reserves for this business. These additional restrictions are not believed to provide a significant additional safety net for such reserves. Companies have a difficult time implementing the unusual requirements. The elimination or modification of these requirements would add efficiencies without impairing solvency.

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.**

Reserve regulations and requirements are needed to promote company solvency and support payment of contractual obligations to consumers. Actuarial achieves its objectives by performing actuarial examinations to ensure compliance with reserve requirements. The division keeps reserve requirements current and appropriate. Actuarial works with FA&E during the examination process to address noncompliance with reserve requirements. When companies are not in compliance with reserve requirements, Actuarial pursues action ranging from a simple reserve adjustment to a Recommendation Committee meeting and subsequent placement under a regulatory action. Statutory reserve requirements are found in Texas Insurance Code, Chapter 425, and in other regulations including those adopted annually in the Accounting Practices and Procedures Manual.

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.

VII. Guide to Agency Programs

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

Name of Program or Function	Financial Program , Conservation of Companies
Location/Division	William P. Hobby Building, Tower III, 5th Floor
Contact Name	Angel Garrett, Director of Rehabilitations and Liquidation Oversight
Actual Expenditures, FY 2006	$725,572.07
Number of FTEs as of May 31, 2007	12

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

Conservation's primary objectives are preserving the value of assets of entities placed in regulatory intervention and determining if rehabilitation is feasible. Early regulatory intervention prevents receiverships and increases the success of rehabilitations to maintain capacity, protect policyholders, and conserve assets. Preserving the value of assets is accomplished by:

- identifying and evaluating the value, quality, and quantity of various assets
- monitoring, reviewing, and if in conservatorship, controlling business
- decisions and transactions that impact these assets
- evaluating and recommending course(s) of action to enhance or preserve assets while incorporating sound business reasons and statutory compliance with the action.

The division determines the feasibility of company rehabilitation by:

- analyzing and evaluating the financial condition and statutory compliance of assigned estates in conformity with the Texas Insurance Code and other regulations and procedures
- analyzing, evaluating, and making recommendations to proposed rehabilitation plans
- reporting status of the assigned estate.

The division develops and adheres to standard procedures that comply with statutory requirements and sound business practices to ensure that each entity is treated consistently, and that all relevant issues are identified and addressed. Conservation facilitates the transition from regulatory intervention to release, court rehabilitation and/or receivership.

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 number of entities receiving TDI solvency-related intervention and the percent of companies rehabilitated following intervention best demonstrate the effectiveness of Conservation, as evidenced by the charts below.

2.1.1. Output 2 – Number of entities receiving TDI solvency-related intervention					
	FY 2002	**FY 2003**	**FY2004**	**FY 2005**	**FY 2006**
Actual Performance	19	13	9	10	9
Annual Target	19	19	19	19	13
Percentage of Target	100%	68.42%	47.37%	52.63%	69.23%
Analysis/Variance Explanation	For this measure, lower than target is desirable.				

2.1.1. Outcome 6 – Percent of companies rehabilitated after TDI solvency-related intervention					
	FY 2002	**FY 2003**	**FY2004**	**FY 2005**	**FY 2006**
Actual Performance	18%	30%	17%	25%	26%
Annual Target	18%	18%	18%	18%	18%
Percentage of Target	100%	164.61%	94.44%	138.89%	144.44%
Analysis/Variance Explanation	For this measure, higher than target is desirable.				

The objectives of solvency-related interventions are to preserve existing companies to provide competition and capacity to the market place and to serve as an alternative to the more expensive receivership process, thereby ultimately preserving insurance guaranty association (IGA) funds.

Financial's early intervention efforts have decreased the number of new receivership estates from an average of almost 33 per year in the late 1980s to an average of about four per year for the last six years.

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.

History is presented in Section VII.D of the Financial Program General Management response.

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.

Conservation solvency-related interventions affect ownership, management, employees, and policyholders of a troubled company. Conservation interacts with Texas policyholders who have questions concerning a troubled company's coverage and claim responsibilities. The division's solvency functions affect and require interaction with the following: State Office of Administrative Hearings (SOAH), Office of the Attorney General (OAG), Texas state district courts, the Federal Bureau of Investigations (FBI), the Internal Revenue Service (IRS), and insurance guaranty associations (IGAs).

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.

Conservation is headed by the Director of Rehabilitation and Liquidation Oversight. Conservation maintains field offices in Dallas and Houston to minimize travel expenses.

Issuance of an administrative letter, Commissioner's order, or court order against a company deemed to be in hazardous condition activates the regulatory intervention process. Field staff deliver the Commissioner order or letter to the company's management. Staff review the order and emphasize to management the requirements for abatement and the deadline for submission of the business/rehabilitation plan. Some administrative actions have time limits. Supervision has 180 days time limit and conservatorships are issued for a period of 90 days, which may be extended for up to six periods of 30 days each.

Conservation staff determine if rehabilitation is feasible and possible in order to define an exit strategy. The determination is made by evaluating company operations, management, financial condition, books of business, and a company-prepared business plan. In determining the financial condition, Conservation staff prepare a financial analysis with accompanying notes describing the company's solvency condition as well as the capital and surplus position. This analysis may serve as evidence that a company is insolvent if staff are required to testify about findings. At other times, this analysis provides the basis for a review of the company's proposed business plan.

If rehabilitation is feasible, the company implements its business plan and is considered for release when it can demonstrate that it satisfied all abatement items listed in the administrative oversight letters, commissioner's order or court order.

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.

HB 1, Rider 3, authorizes TDI to receive an appropriated receipt of $125,000 each year of the biennium for conservation efforts.

Texas Insurance Code, Chapter 441.203 grants Conservation the statutory ability to collect reimbursements for staff time and travel for an intervention. Insurance entities can not reduce future premium taxes for these payments. These reimbursements are collected to offset the rider funds.

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

Conservation conducts solvency intervention of Texas-domiciled insurers by administrative action. The Financial Program's Liquidation Oversight Division uses special deputy receivers (SDR) to administer rehabilitation estates, as guided by the court. Similarities include working with the business planning process, making decisions that impact consumers, coordinating with other states' insurance departments and guaranty associations, and recouping expenses for successful rehabilitations.

Other states perform similar functions for companies domiciled in their states; however, it is usually through the court systems. When a company is domiciled in another state, TDI's Commissioner of Insurance may, in certain circumstances, initiate a regulatory action to protect Texas policyholders.

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.

When Conservation intervenes in a company that writes in multiple states, the division coordinates with those states especially in the area of writing new and/or renewal business. When Conservation learns other states have taken any regulatory action, the division is responsive to the respective states' requests for information on the troubled company.

The domiciliary state usually serves as the lead regulator on multistate solvency interventions. However, if standards for regulatory actions or the majority of policies are concentrated in another state, a non-domiciliary state may take regulatory action per its statutes to protect policyholders. When the insurer's problems persist, the domiciliary state may also take simultaneous action and efforts between the states are coordinated and not duplicated.

When determination is made for court rehabilitation or receivership, Conservation staff coordinate with the respective Texas IGA, the OAG, and state district courts.

When a company is placed in court rehabilitation, under Chapter 21A, Conservation and Liquidation Oversight jointly take over the company until a SDR is appointed. Conservation facilitates the transition to court rehabilitation, provides supporting documents that contain detailed company and policyholder information to be used by the SDR, and coordinates efforts with Liquidation Oversight staff to maintain the operations and services to policyholders.

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.

Conservation works with the following local, regional, and federal units of government:

- SOAH - Troubled companies may appeal regulatory actions to SOAH.
- OAG – OAG and Conservation coordinate testimony for receivership hearings.
- State district courts - To place a troubled company in receivership, Conservation must appear before Texas state district courts and provide information, affidavits, and testimony. Conservation is responsible for carrying out court orders and reporting back to the court on temporary restraining orders and temporary injunctions.
- FBI and IRS – Conservation communicates with the FBI on criminal investigations and with the IRS regarding tax liabilities and respective penalties.
- IGAs – Once Conservation determines that a company may potentially affect the guaranty fund, the conservator must inform the IGA board and provide an estimate of the insolvency so that the IGA makes the necessary anticipated preparations to assume the responsibilities for policyholders.
- U.S. Department of Labor (DOL) – Conservation communicates with DOL employees on inspections and audits of entities licensed as multiple employer welfare arrangements (MEWAs), which are jointly regulated by TDI and DOL. This communication verifies compliance and completeness of entity requirements pertaining to federal law and is necessary when an entity plans a self dissolution. Additionally, Conservation coordinates with DOL when self insured plans run by third-party administrators (TPA) develop solvency problems. Self-insured plans fall under DOL purview, but TPAs are regulated by TDI.

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.**

The Legislature determined that supervision and conservation of a troubled company is necessary to avoid the more expensive alternative of receivership. If a troubled company can correct hazardous financial conditions to protect the public and follow the business plan to restore solvency or compliance with statutes, less disruption to policyholders, the insurance industry that funds insolvencies through insurance guaranty associations and the public occurs.

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.

VII. Guide to Agency Programs

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

Name of Program or Function	Financial Program, Liquidation Oversight
Location/Division	William P. Hobby Building, Tower III, 5th Floor
Contact Name	Angel Garrett, Director of Rehabilitations and Liquidation Oversight and Evelyn Jenkins, Director
Actual Expenditures, FY 2006	All expenditures are paid & received from allocated funds.
Number of FTEs as of May 31,2007	8.25 allocated FTEs

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

Liquidation Oversight assists the Commissioner as receiver in his fiduciary duty to protect the interests of policyholders and the public by marshalling assets, minimizing expenses, and making equitable distributions to the rightful claimants of the insolvent estate. Liquidation Oversight oversees insurance guaranty associations to maximize coordination between all parties involved in liquidations and transition claims processing and payment of impaired carriers. The division's major activities are to:

- provide oversight of the rehabilitation and liquidation of insolvent insurers
- evaluate and assess Special Deputy Receivers (SDRs) involved in the program and provide feedback to them regarding performance
- offer training through SDR conferences and forums
- maintain records of insolvent insurers during and after receivership pursuant to the records retention schedule and the Texas Insurance Code
- attend IGA board meetings and prepare reports of activities of the various boards.

Liquidation Oversight oversees SDRs, outside contractors who take over the management, rehabilitation, or liquidation of an insurer after a court ordered receivership. Liquidation Oversight reviews monthly management reports and quarterly financial reports for each entity in receivership. Liquidation Oversight interacts with the SDRs to provide:

- oversight and guidance through cost benefit analyses
- quarterly status conferences before the special master
- daily interaction regarding the management, claims processes, relationships with guaranty associations, legal issues and litigation, and financial operations of the companies.

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.

Liquidation Oversight's effectiveness is best demonstrated by the amount of net asset recoveries collected from receivership estates, as evidenced by the chart below.

2.1.1. Output 3 – Dollar amount (millions) of net asset recoveries collected from receivership estates					
	FY 2002	**FY 2003**	**FY2004**	**FY 2005**	**FY 2006**
Actual Performance	$24.3	$36.8	$22.0	$40.1	$25.8
Annual Target	$6.0	$6.0	$8.0	$8.0	$15.0
Percentage of Target	405.46%	613%	275.49%	501%	172%
Analysis/ Variance Explanation	Higher than target is desirable.				

The division recognizes the importance of expanding the pool of qualified SDRs since the agency entrusts SDRs with the responsibility of administering receiverships. Previously every third year, applications were accepted to qualify new SDR candidates and re-qualify existing SDRs. As of 2007, applications will be accepted annually in order to facilitate new applicants and expand the pool of qualified SDRs. Through Liquidation Oversight's SDR and Subcontractor Conference in 2006, potential new SDRs were educated in the processes of bidding, SDR selection, and other aspects of receivership management. This conference allowed SDRs and possible subcontractors to interact allowing SDR's to recruit and build a team for the purposes of tendering bids on new receivership contracts. Currently there are 45 individuals or companies that have been qualified as SDRs.

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.

History is presented in Section VII.D of the Financial Program General Management response.

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.

Liquidation Oversight affects:

- Texas policyholders and consumers from other states who have lost coverage or have outstanding claims involving insolvent insurers
- creditors and stockholders or owners of insolvent insurers
- Texas and other states' IGAs
- Special Deputy Receivers and their subcontractors who are active in the rehabilitation and liquidation efforts.

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 division is led by the Director of Rehabilitations and Liquidation Oversight and the Director of Liquidation Oversight. Under the supervision of the Director of Liquidation Oversight, each receivership is assigned an analyst to review reports submitted by the SDRs, monitor and evaluate performance, and administer the contract. Annual site visits are performed to provide further appraisal of activities, and recommendations for improvement are provided in writing to each SDR.

Annually, Liquidation Oversight conducts an SDR conference in Austin. The conferences are designed as a forum for SDRs to collectively share information and the best, most effective approaches to handling issues confronting estates. Speakers include SDRs, staff or subcontractors, IGA staff, employees of other sections of TDI with whom the SDRs interact, and experts on issues involving the rehabilitation and liquidation process. At the end of the conference, attendees complete course evaluations which are used to plan future conferences.

Receiverships are subject to the Travis County District Court. On a quarterly basis, the Special Master, appointed by the Travis County District Court, holds status conferences on individual estates. Generally, the three parties that are formally represented before the Special Master are the SDR, Liquidation Oversight, and the respective IGA. Other creditors or interested parties can attend but do not usually take an active role. At the status conference, the SDR gives the Special Master an update of the activities that have taken place during the quarter. Customarily, the SDR will distribute an agenda of items to be discussed to the Special Master and relevant parties. Any interested party located out of town may participate via telephone upon request.

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).

Liquidation Oversight salaries and expenses are allocated to open receiverships based on a formula and are paid by the receivership. Expenses for work on a closed receivership and any Liquidation Oversight travel unrelated to a receivership is paid from the Abandoned Property Fund (APF). The APF, created by statute, is also used to fund the administration of receivership estates that have no assets or insufficient assets to complete the receivership process.

The operation of the Liquidation Oversight Division, which includes oversight of open receiverships and responses to the public on items concerning closed receiverships, has no impact on the General Revenue Fund.

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

The Financial Program's Conservation Division conducts rehabilitation activities by administrative actions. Liquidation Oversight contracts with SDRs to administer rehabilitation estates that are ordered into receivership by the court. The court-ordered rehabilitation gives the receiver defined powers and complete control of the company.

Other states have similar receivership functions that use outside contractors to administer receiverships. Texas was the first state to adopt the NAIC Receivership Model Act into law (Texas Insurance Code, Chapter 21A, effective 09/01/2005).

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.

Court-ordered rehabilitations, under Chapter 443 (formerly Chapter 21A), are handled solely by Liquidation Oversight. Conservation coordinates transfer of responsibilities to Liquidation Oversight when a company is placed in court-ordered receivership. Conservation and Liquidation staff may jointly take over a company until a SDR is appointed. Liquidation Oversight utilizes a checklist to ensure that all tasks are performed by the appropriate person. Managers on site assign specific duties to both Liquidation Oversight and Conservation staff.

In court-ordered rehabilitations or receiverships, multistate coordination with other receivers and IGAs is often necessary to facilitate access to company data and to afford other states' policyholders the same protections and benefits of the receivership process as Texas policyholders.

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.

Receiverships present different challenges and opportunities to interact with various local, regional, or federal units of government. Some examples of coordination with governmental entities include:

- Office of the Attorney General, state and local prosecutors, and the Federal Bureau of Investigations in the prosecution of fraud or other financial crimes
- State insurance departments and guaranty associations – receiverships licensed in other states requiring interstate coordination
- Pension Benefit Guaranty Fund – benefit programs of insolvent insurers
- U.S. Department of Labor (DOL) – receiverships with letters of credit involving DOL
- Internal Revenue Service – receivership tax issues.

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.**

Twenty-one contracts with $2.6 million worth of administrative expenditures were administered in Liquidation Oversight in FY 2006. Since the SDR functions are contracted, Liquidation Oversight assures the fiduciary duty of the SDRs is carried out in the most cost effective and professional manner and that the policyholders and other creditors of the insolvent insurers have the benefit of the maximization of the assets available and the recovery of any additional assets. Liquidation Oversight reviews monthly management reports and quarterly financial reports and provides oversight and guidance to SDRs as described in Liquidation Oversight's response to VII.B. For improved performance, Liquidation Oversight conducts training though SDR conferences and forums to keep SDRs advised of law changes, court decisions, etc. Liquidation Oversight also evaluates and assesses SDRs involved in the program and provides feedback to SDRs regarding performance under the contracts.

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.

Certain portions of Texas Insurance Code, Chapter 443, could be clarified to provide greater specificity regarding oversight authority and duties. Staff recommend including rehabilitation procedures and clarifying rehabilitator duties, rehabilitation plan elements, and guaranty association reporting requirements in Chapter 443, Sections 102, 103, and 106, respectively.

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

The circumstances that existed in 1991, when the receivership process was privatized, are vastly different than today. In 1991, the number of receiverships was at a record high – over 150 pending and over 800 related cases in litigation. Today, there are only 21 liquidations pending, and the majority of these are currently scheduled to be closed in the next 12 months.

TDI has been facing challenges in recent years, such as declining number of qualified bids received from potential contractors and difficulties in managing the actions of certain private contractors, which led to complaints from the public. Therefore, it may be appropriate to consider utilizing TDI staff resources to administer more receivership estates in the future.

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.**

Why the regulation is needed

The Receivership Act (Act), Chapter 443, is designed to protect the policyholders and other creditors in the event of a rehabilitation or receivership. The receivership process and the protection provided by IGAs for unpaid claims works in tandem to provide a policyholder safety net in the event an insurer is unable to meet its contractual obligations.

The scope of, and procedures for, inspections or audits of regulated entities
The Act provides for contracting with an SDR who assumes all rights and responsibilities of the receiver. Liquidation Oversight requires monthly financial and management reports on each receivership and conducts a review of the information provided. The SDR also files standardized quarterly financial reports with the receivership court, reporting expenses, assets, and liabilities. Annually, Liquidation Oversight evaluates all SDRs and provides feedback on performance in the previous year. All SDR contracts contain a liquidated damages clause should the SDR terminate representation of the estate. The liquidated damages are set relative to the size and complexity of the receivership. The division conducts an annual risk assessment on all SDRs, and the three SDRs that score the highest are recommended for audit performed by an outside independent auditor who reports findings to Liquidation Oversight.

Follow-up activities conducted when non-compliance is identified
Liquidation Oversight analysts direct follow-up questions related to monthly activity to the SDRs. Liquidation Oversight can disallow SDR or subcontractor billings that are excessive or fail to comply with division policy.

Sanctions available to the agency to ensure compliance
Liquidation Oversight notes SDR repeated violations of procedures in evaluations, which are communicated to the SDR at the time of the infraction. Liquidation Oversight uses evaluation results when selecting SDRs. A poor evaluation may prevent an SDR from obtaining a new receivership contract. An SDR whose performance is judged to be consistently substandard or who commits an egregious violation may have the contract rescinded, re-bid, and awarded to a new SDR.

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.

Consumers submit complaints against SDRs to TDI's Consumer Protection (CP) Program. CP sends acknowledgement to complainants, copying Liquidation Oversight and in some cases, the SDR. Liquidation Oversight instructs SDRs to respond to the complainants and copy the division on responses for inclusion in SDR files and future performance evaluations. If Liquidation Oversight receives a large number of complaints against a particular SDR, the division will determine whether emergency response is necessary.

Complaints against insurance guaranty associations are routed to Liquidation Oversight from CP, the public, and through legislative channels. The division evaluates complaints, and the director contacts the IGA allowing an opportunity to respond to the complaints. Liquidation Oversight follows up on complaints to ensure proper resolution. The division reports complaints from legislators to Government Relations within 24 hours.