



**TEXAS COMMISSION OF
LICENSING AND REGULATION**

AND

**TEXAS DEPARTMENT OF
LICENSING AND REGULATION**

SUNSET SELF EVALUATION REPORT

AUGUST 17, 2001

Texas Department of Licensing and Regulation
Self-Evaluation Report

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I. Key Functions, Powers, and Duties

Please provide the following information about the overall operations of the agency. More detailed information about individual programs will be requested in a later section.

A. Provide an overview of the agency's mission, key functions, powers, and duties. Specify which duties are statutory.

The mission of the Texas Department of Licensing and Regulation is to maintain public trust while promoting the public's safety and ensuring a fair and competitive business environment for our regulated industries.

TDLR's key functions are to:

- ? Issue licenses, registrations, certificates, and permits to qualified applicants;
- ? Conduct inspections of certain equipment, facilities and buildings;
- ? Investigate and resolve complaints against persons or entities regulated by the Department; and
- ? Educate Texans about the services and programs TDLR administers.

The Department's enabling legislation is Chapter 51 of the Texas Occupations Code which states that the Texas Department of Licensing and Regulation is "the primary state agency responsible for the oversight of businesses, industries, general trades, and occupations that are regulated by the state" or *umbrella licensing agency*. Chapter 51 provides the statutory basis from which the primary duties of the Commission and the Executive Director are established.

The primary duties of the Commission (Section 51.201, Texas Occupations Code) are to:

- ? Formulate policy objectives;
- ? Approve the operating budget;
- ? Approve legislative appropriations requests;
- ? Set fees;
- ? Adopt rules;
- ? Assess monetary penalties;
- ? Adopt personnel policies; and
- ? Supervise the Executive Director's administration of the Department.

The primary duties of the Executive Director (Section 51.103, Texas Occupations Code) are to:

- ? Administer and enforce agency programs;
- ? Hire staff as needed to perform Department functions;
- ? Issue licenses, registrations, certificates and permits;
- ? Develop and adopt rules; and
- ? Assess administrative sanctions (revocation, suspension, denial, reprimand, or probation).

As the State's umbrella licensing agency, TDLR currently administers twenty regulatory and licensing programs.

- ? Air Conditioning Contractors (Article 8861)
- ? Architectural Barriers (Article 9102)
- ? Auctioneers (Chapter 1802, Occupations Code)
- ? Boilers (Chapter 755, Health & Safety Code)
- ? Court Interpreters (Chapter 57, Government Code)
- ? Combative Sports (Boxing) (Chapter 2052, Occupations Code)
- ? Career Counseling Services (Article 5221a-8)
- ? Elevators, Escalators and Related Equipment (Chapter 754, Health & Safety Code)
- ? Industrialized Housing and Buildings (Article 5221f-1)
- ? Personnel Employment Services (Article 5221a-7)
- ? Property Tax Consultants (Article 8886)
- ? Service Contract Providers (Article 9034)

- ? Staff Leasing Services (Chapter 91, Labor Code)
- ? Talent Agencies (Chapter 2105, Occupations Code)
- ? Temporary Common Worker Employers (Chapter 92, Labor Code)
- ? Transportation Service Providers (Article 6675 (e))
- ? Water Well Drillers (Chapter 32, Water Code)
- ? Water Well Pump Installers (Chapter 33, Water Code)
- ? Weather Modification (Chapter 18, Water Code)
- ? Vehicle Protection Product Warrantors (Article 9035)

B. Does the agency's enabling law correctly reflect the agency's mission, key functions, powers, and duties?

The enabling law in Chapter 51 of the Texas Occupations Code correctly reflects the mission, key functions, powers, and duties of the Department.

C. Please explain why these functions are needed. Are any of these functions required by federal law.

The key functions are to: issue licenses, registrations, certificates and permits; conduct inspections and monitor third-party inspectors; and investigate and resolve complaints. None of these functions are required by federal law.

D. In general, how do other states carry out similar functions?

In general, other states have umbrella licensing and regulatory agencies for occupational and professional licensure, though the type and number of industries regulated may differ.

Some peer states, such as Florida, California and Illinois, have agencies that regulate a large number of industries and professions instead of having a separate agency for each occupation. For example, Florida's Department of Business and Professional Regulation oversees such diverse professions as barbers and funeral directors. In Texas, each of these professions is regulated by a separate agency.

E. Describe any major agency functions that are outsourced.

Some common administrative functions are outsourced in part or in whole to other specialized state agencies, including: some telecommunication and procurement services; and building maintenance from the General Services Commission; legal representation (other than General Counsel) by the Office of the Attorney General; risk assessment by the State Office of Risk Management; performance and financial audits by the State Auditor's Office; employee benefit services from the Employee Retirement System; and USAS and USPS accounting by the Comptroller of Public Accounts.

The major Department functions that are outsourced include:

Internal Auditor – The Department has contracted with a private vendor to perform this required function. Outsourcing is considerably more cost effective than attempting to hire someone with the necessary qualifications to perform these tasks.

Registrant/Licensee Examinations – The majority of examinations required for Licensing or Registration are provided by private vendors at numerous locations around the state. This eliminates the need for all applicants to travel to Austin for testing.

Exam Translations – Translation of Department exams into languages other than English are performed by third parties with greater expertise and range than available in house.

Plan Reviews – The Architectural Barriers Statute authorizes the Department to outsource review of construction plans for compliance with this program's Standards. The large number of these third-party reviewers allow the Department to more efficiently and economically handle a large, growing and sometimes fluctuating workload.

Inspections – The Department is authorized by statute to have Architectural Barrier, Boiler, Elevator and Escalator, and Industrialized Housing and Building inspections performed by third-party inspectors. These inspections determine compliance with applicable Standards. The large number of these third-party inspectors and their geographical dispersion across the state makes it possible for these inspections to be performed more efficiently and economically.

Scanning Service for Document Imaging – The Department has contracted with a private vendor to image existing documents for use with its recently acquired document imaging system. This immense task can be performed much more efficiently by a specialized private vendor than by Department staff.

Wide Area Network Support (Regional Field Offices) – The Department piggybacks onto the Department of Human Services Local Access Network in our Dallas and Houston Regional offices. This allows us to share this cost with DHS.

“Texas Online” – The Department participates in this multi-agency project, which provides banking support to accept payment by credit for our on-line license renewals.

Printing – The Department outsources large print jobs to private vendors, which is more economical than maintaining a large high-volume copier.

F. Discuss anticipated changes in federal law and outstanding court cases as they impact the agency's key functions.

Currently, there are no anticipated changes in federal law or outstanding court cases that would impact the Department’s key functions.

G. Please fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact the agency. Do not include general state statutes that apply to all agencies, such as the Open Records Act, the Open Meetings Act, or the Administrative Procedure and Texas Register Act. Provide the same information for Attorney General opinions from FY 1997 - 2001, or earlier significant Attorney General opinions, that affect the agency's operations.

Texas Department of Licensing and Regulation Chart 1: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency
Article 5221a-7, Texas Civil Statutes	Provides authority to license and regulate personnel employment services.
Article 5221a-8, Texas Civil Statutes	Provides authority to license and regulate career counseling services.
Article 5221f-1, Texas Civil Statutes	Provides authority to regulate industrialized housing and buildings.
Article 6675(e), Texas Civil Statutes	Provides authority to regulate transportation service providers.
Article 8861, Texas Civil Statutes	Provides authority to license and regulate air conditioning and refrigeration contractors.
Article 8886, Texas Civil Statutes	Provides authority to license and regulate property tax consultants.
Article 9034, Texas Civil Statutes	Provides authority to license and regulate service contract providers.
Article 9035, Texas Civil Statutes	Provides authority to license and regulate warrantors of vehicle protection products.
Article 9102, Texas Civil Statutes	Provides authority to license and regulate persons and activities involved with architectural barriers.

Chapter 57, Texas Government Code	Provides authority to license and regulate court interpreters.
Chapter 754, Texas Health and Safety Code	Provides authority to regulate persons and activities involved with elevators, escalators, and related equipment.
Chapter 755, Texas Health and Safety Code	Provides authority to regulate boilers.
Chapter 91, Texas Labor Code	Provides authority to license and regulate staff leasing services.
Chapter 92, Texas Labor Code	Provides authority to license and regulate employers of temporary common workers.
Chapter 51, Texas Occupations Code	Enabling law for the Commission and Department.
Chapter 1802, Texas Occupations Code	Provides authority to license and regulate auctioneers.
Chapter 2052, Texas Occupations Code	Provides authority to license and regulate persons and activities involved with boxing and other combative sports.
Chapter 2105, Texas Occupations Code	Provides authority to license and regulate talent agencies.
Chapter 18, Texas Water Code	Provides authority to license and regulate weather modification services.
Chapter 32, Texas Water Code	Provides authority to license and regulate water well drillers.
Chapter 33, Texas Water Code	Provides authority to license and regulate water well pump installers.
Other state statutes with impact on TDLR	
Chapters 19, 20, 21, 64, and 65, Texas Alcoholic Beverage Code	A person who is engaged in the wholesale distribution of alcoholic beverages and who operates trucks and delivery vehicles under the Texas Alcoholic Beverage Code is exempt from the requirements of the Department's transportation service providers program.
Article 41a-1, Texas Civil Statutes	A certified public accountant under Article 41a-1 is exempt from the requirements of the Department's property tax consultants program.
Article 4512c, Texas Civil Statutes	A person licensed as a psychologist under Article 4512c is exempt from the requirements of the Department's career counseling services program.
Article 3271a, Texas Civil Statutes	A person licensed as a professional engineer under Article 3271a is exempt from the requirements of the Department's air conditioning and refrigeration contractors program.
Article 4413(36), Texas Civil Statutes	A motor vehicle dealer licensed under Article 4413(36) who sells a service contract along with a vehicle and covers its obligations under the service contract with a reimbursement insurance policy is exempt from the requirements of the Department's service contract providers program.
Article 4512g, Texas Civil Statutes	A professional counselor licensed under Article 4512g is exempt from the requirements of the Department's career counseling services program.
Article 5221f, Texas Civil Statutes	Mobile homes or HUD-code manufactured homes as defined in Article 5221f are exempt from the requirements of the Department's industrialized housing and buildings program.
Article 5221f, Texas Civil Statutes	A person or firm that is licensed as a manufacturer, retailer, rebuilder, or installer, and engages exclusively in air conditioning and refrigeration contracting for manufactured homes under Article 5221f, is exempt from the requirements of the Department's air conditioning and refrigeration contractors program.
Article 6573a, Texas Civil Statutes	An individual who holds an active license as a real estate broker or salesperson under Article 6573a is exempt from the requirements of the Department's property tax consultants program.
Article 6573a.2, Texas Civil Statutes	An individual who is a state-licensed real estate appraiser or state-certified real estate appraiser under Article 6573a.2 is exempt from the requirements of the Department's property tax consultants program.

Article 6573b, Texas Civil Statutes	Residential service contracts sold by entities licensed under Article 6573b are exempt from the requirements of the Department's service contract providers program.
Article 1.14-2, Texas Insurance Code	The Department requires service contract providers to obtain insurance from an authorized insurer or surplus line carrier regulated by Article 1.14-2.
Article 21.49, Texas Insurance Code	The Department requires service contract providers to provide notice to the Executive Director and to the provider before canceling the insurance policy, in accordance with the notice requirements of Article 21.49.
Section 1.111, Texas Tax Code	A property owner's lessee who is designated as the agent of the property owner in accordance with Section 1.111 is exempt from the requirements of the Department's property tax consultants program.
Chapter 22, Texas Tax Code	A person who prepares a property tax rendition or report under Chapter 22 is subject to the requirements of the Department's property tax consultants program.
Chapter 41, Texas Tax Code	A person who represents another person with respect to a tax protest, preparation or rendition of a property tax report, negotiation or agreement with an appraisal district, or acting as a property owner's agent, is subject to the requirements of the Department's property tax consultants program.
Section 681.009(b), Texas Transportation Code	Requires a political subdivision to designate a parking space or area according to the Standards and specifications of the Department's architectural barriers program.
Chapter 722, Texas Transportation Code	Agreements issued by automobile service clubs certified under Chapter 722 are exempt from the requirements of the service contract providers program.
State rules with an impact on TDLR	
Subchapter I, Chapter 334, Title 30, Texas Administrative Code	Any person who possesses a class A or class B underground storage tank (UST) installer's license and who drills observation wells within the backfill of the original excavation for UST's, including associated piping and pipe trenches, to a depth of no more than two feet below the tank bottom, is exempt from the requirements of the Department's water well drillers and water well pump installers programs.
Federal statutes with impact on TDLR	
7 U.S.C. § 181	An auction that is conducted by a posted stockyard or market agency as defined by § 181 of the Federal Packers and Stockyard Act is exempt from the requirements of the Department's auctioneer program.
15 U.S.C. §§ 3901-3906	The Liability Risk Retention Act of 1986 may preempt the Department's authority to require service contract providers to obtain insurance from an authorized insurer or surplus line carrier regulated by the Texas Department of Insurance.
15 U.S.C. §§6301-6313	The Professional Boxing Safety Act requires the following: boxers must register with the boxing commission in the state in which the boxer resides, state boxing commissions must issue an identification card to boxers registered in the state, and boxing commissions must report boxing results within 48 hours of an event and establish safety standards equivalent to those required in the Act.
19 U.S.C. § 1641	A person that acts as a licensed customs broker as defined by § 1641 of the Tariff Act of 1930 is exempt from the requirements of the Department's transportation service providers program.
42 U.S.C. §§ 602 and 7651a	The Department's air conditioning and refrigeration contractors program provides guidelines for the sale and use of refrigerants, which are those refrigerants listed by §602 as "Class I" and "Class II" substances for the purposes of the Clean Air Act Amendments of 1990 set forth in §7651a.
42 U.S.C. § 12101	If compliance with the requirements of the Department's elevator program is not "readily achievable" as defined by the Americans with Disabilities Act of 1990, then the Executive Director may grant a waiver of compliance to the elevator owner.

42 U.S.C. § 12181	The Department's architectural barriers program uses the definitions of "commercial facility" and "public accommodation" specified in the Americans with Disabilities Act of 1990.
46 U.S.C. § 1702	An ocean freight forwarder as defined by Title 46 (Shipping), Section 1702 (Definitions), is exempt from the requirements of the Department's transportation service provider program <u>Note</u> : The United States Congress has repealed 46 U.S.C. § 1702.
99 Stat. 1354, 1509-1514 (1985)	If a well owner participates in the Conservation Reserve Program of the Food Security Act of 1985, then the well is considered to be in use for the purposes of the Department's water well drillers and water well pump installers programs.
Attorney General Opinions	
Attorney General Opinion Number	Impact on Agency
JM-1084 (1989)	The Executive Director is not authorized to impose civil penalties in lieu of administrative sanctions in contested auctioneer licensure cases by the provisions of either Section 7, Article 8700, or Section 13(e), Article 6252-13a, Texas Civil Statutes.
JM-1195 (1990)	Municipalities may not impose additional local license taxes, occupation taxes, or requirements of filing a bond on air conditioning and refrigeration contractors licensed under Article 8861, Texas Civil Statutes.
DM-36 (1991)	While management search consultants are exempt from the registration and bonding requirements of the personnel employment services program, Article 5221a-7, Texas Civil Statutes, they are not exempt from the other requirements of Article 5521a-7.
DM-60 (1991)	Talent agencies who follow certain amendments to Screen Actors Guild franchise regulations would not violate Sections 2(b), 2(c), or 10(b) of the Texas Talent Agency Act, Article 5221a-9, Texas Civil Statutes.
DM-110 (1992)	Cable television companies that collect a special pay-per-view fee from subscribers who wish to view a simultaneous telecast of a live boxing performance are not subject to the licensing requirements of Section 11(b) of the Texas Boxing and Wrestling Act, Article 8501-1, Texas Civil Statutes.
DM-243 (1993)	A person who provides common workers to third-party users is an "employer" of those common workers within the meaning of the Temporary Common Worker Act, Article 5221a-10, Texas Civil Statutes, and is responsible for providing workers' compensation and unemployment insurance as required by other laws.
LO 93-77 (1993)	The mere fact that a business enterprise publishes a newspaper of general circulation or other publication does not exempt it from regulation under the Personnel Employment Services Act, Article 5221a-7, Texas Civil Statutes.
LO 94-096 (1994)	Section 754.014(a)(2), Texas Health and Safety Code, pertains to all elevators, escalators, and related equipment designed to carry individuals in any building other than a private home.
LO 96-040 (1996)	The Department has jurisdiction under the Texas Boxing and Wrestling Act, Article 8501, Texas Civil Statutes, over sporting exhibitions, however styled, in which contestants exchange blows with the arms, legs, hands, or feet as a matter of course.
LO 96-045 (1996)	Elevators located at an industrial facility or a private home are not located at a "commercial establishment" as defined in Section 754.014(a)(2), Texas Health and Safety Code. An elevator in a residential facility operated by a religious order, however, may be subject to the requirements of the elevator program. An elevator in a commercial establishment is subject to regulation only if the public uses the elevator.
LO 96-143 (1996)	The Commission of Licensing and Regulation, and not the Executive Director, has authority to assess an administrative penalty under the Texas Labor Code in the amount of \$1,000 to \$50,000.

LO 97-043 (1997)	Persons exempt from the licensing requirements for air conditioning and refrigeration contractors under Article 8861, Subsection 6(a)(2), Texas Civil Statutes, are also exempt from any licensing requirements of a municipality for this activity.
LO 98-009 (1998)	The Commission of Licensing and Regulation may not create an advisory board to aid in its regulation of the staff leasing services industry absent specific statutory authority to do so. This Opinion was modified on March 1, 2000 (<i>see</i> AG Opinion JC-0189) to provide that, absent express statutory authority, a state agency still could establish an advisory board if there is <u>implied</u> statutory authority to do so.
LO 98-010 (1998)	The Department does not have authority to promulgate rules permitting persons to purchase refrigerants if those persons already are exempt under Subsections 6(a)(3), 6(a)(5), 6(a)(6), or 6(a)(7) of Article 8861, Texas Civil Statutes, from the licensing requirements for air conditioning and refrigeration contractors under Article 8861. The Attorney General withdrew this Opinion on June 10, 1998, pending a request by Senator Carlos Truan to reconsider the conclusion of the Opinion. On July 5, 1999, the Attorney General determined that Senator Truan's request for reconsideration was rendered moot by the enactment of House Bill 1822, effective September 1, 1999.
LO 98-065 (1998)	The Department is authorized to continue treating a firm as a management search consultant (as defined in section 1(11) of Article 5221a-7, Texas Civil Statutes) so long as the firm acts as an employer's agent, regardless as to whether this arrangement also benefits the employee.
LO 98-078	The Department has the discretion to defer enforcement of general reach-range requirements against gasoline pump credit-card readers until the federal government has adopted reach-range requirements specifically applicable to the credit-card readers.
JC-0090 (1998)	A Department rule requiring a water well to be located a minimum distance from a property line is within the scope of the Department's rulemaking authority.
JC-0189 (2000)	The Department's authority to create an advisory committee depends upon statutes specifically governing the agency and may be expressed or implied.
JC-0201 (2000)	The Department may not require by rule that applicants for a professional boxing license submit to HIV testing as a condition of licensure.
JC-0303 (2000)	Manufacturers, retailers, rebuilders, and installers of manufactured homes who are exempt from licensing requirements as air conditioning and refrigeration contractors under Section 6(f), Article 8861, Texas Civil Statutes, are not subject to the requirements of Section 10 of Article 8861. This exemption does not apply to the installation of air conditioning components at the site where a manufactured home will be occupied.
JC-0322 (2001)	The Residential Service Company Act, Article 6573b, Texas Civil Statutes, requires licensing with the Texas Real Estate Commission of persons offering contracts on residential property items or systems that are not issued by the actual seller or manufacturer of the items or systems. In contrast, the Service Contract Regulatory Act, Article 9034, Texas Civil Statutes, requires registration with the Department of persons offering items issued by the seller or manufacturer of the item, or any other service contract not regulated by Article 6573b. A person who provides contracts governed by both statutes is required to comply with Article 6573b with respect to contracts governed by that statute and to comply with Article 9034 with respect to contracts governed by that statute.

H. Please fill in the following chart.

Texas Department of Licensing and Regulation Chart 2: Agency Contacts			
	Name	Address	Telephone Number Fax Number E-mail Address
Agency Head	William H. Kuntz, Jr.	920 Colorado Street Austin, Texas 78701	(512) 463-3170 (512) 475-2874 whkuntz@license.state.tx.us
Agency's Sunset Liaison	Brian E. Francis	920 Colorado Street Austin, Texas 78701	(512) 463-3171 (512) 475-2874 brian.francis@license.state.tx.us

II. History and Major Events

Provide a timeline discussion of the agency's history, briefly describing the key events in the development of the agency, including:

- ? the date the agency was established;
- ? the original purpose and responsibilities of the agency;
- ? major changes in responsibilities or statutory authority;
- ? agency/policymaking body name and composition changes;
- ? the impact of state/federal legislation, mandates, and funding;
- ? the impact of significant state/federal litigation that specifically affects the agency's operations; and
- ? key organizational events and areas of change and impact on the agency's organization (e.g., a major reorganization of the agency's divisions or program areas).

- 1909** The Bureau of Labor Statistics and Office of the Commissioner created to consolidate labor statistics in Texas, including those involving women and children workers and also health conditions in the workplace. The agency was also given the responsibilities of enforcing existing labor laws, inspecting factories, and marketing the use of the state's natural resources. This new agency reflected the nationwide progressive trend of increasing the safety of food production and the workplace.
- 1930s** Bureau of Labor Statistics became the local administrator for the National Recovery Act.

Bureau assumed enforcement of Oil and Gas laws (later transferred to the Railroad Commission).
- 1933** Legislature passes Texas Boxing and Wrestling Act, which gives the agency oversight of those sports in Texas.
- 1937** Legislature passes the Texas Boiler Act, in response to the New London School explosion that killed approximately 300 persons.
- 1940s** The Bureau's mission shifts towards a more regulatory function and away from statistics gathering.
- 1949** Private Employment Agency program regulation passed by the Legislature. Program name later changed to Personnel Employment Services.
- 1961** Water Well Driller program regulation passed by the Legislature and placed under the authority of the State Board of Water Engineers. Later transferred to TDLR from Texas Natural Resources Conservation Commission (TNRCC).

- 1967** Weather Modification program regulation passed by the Legislature and placed under authority of the Texas Water Development Board. Later transferred to TDLR from TNRCC.
- 1969** Legislature creates the Texas Private Employment Agency Regulation Board, which functions under the umbrella of the Bureau of Labor Statistics.
- The Legislature passes law relating to architectural barriers and accessibility.
- 1975** The Bureau of Labor Statistics changes its name to the Department of Labor and Standards, reflecting its more regulatory nature.
- Auctioneer industry regulation is passed by the Legislature.
- 1977** The Boiler law is amended to include inspection of nuclear plants.
- 1979** Legislature abolished the Texas Private Employment Agency Regulation Board and returns regulation of Personnel Employment Services to the Department of Labor and Standards
- 1983** Air Conditioning and Refrigeration Contractor regulation is passed by the Legislature.
- 1985** Industrialized Housing and Building program regulation is passed by the Legislature.
- 1987** Career Counselors program regulation is passed by the Legislature.
- 1989** Talent Agents program regulation is passed by the Legislature.

Last Sunset Review of agency performed. Department of Labor and Standards, which is overseen by one commissioner appointed by the Governor, is changed to the Department of Licensing and Regulation, which is overseen by a 6-member Commission of Licensing and Regulation appointed by the Governor. Legislation also broadened TDLR's licensing and enforcement authority for the programs it administers. This authority includes appointing advisory board members, setting license and other fees, and imposing administrative penalties and sanctions.

Membership camping resort regulation is abolished by the Legislature.

Child Labor Law program is transferred to the Texas Employment Commission (now the Texas Workforce Commission),

Health spa program is transferred to the Secretary of State.

- 1990** The Americans with Disabilities Act of 1990 is enacted.
- 1991** Architectural Barriers program is transferred from the General Services Commission.
- Water well pump installer program regulation is passed by the Legislature and placed under the authority of TNRCC. Later transferred to TDLR.
- Property Tax Consultants program regulation is passed by the Legislature.
- Temporary Common Worker employers program is passed by the Legislature.
- 1993** Staff Leasing Services program regulation is passed by the Legislature.
- Elevators, Escalators, and Related Equipment program regulation is passed by the Legislature.
- The Pay Day program is transferred to the Texas Employment Commission (now the Texas Workforce Commission).

The Minimum Wage Law program is transferred to Texas Employment Commission (now the Texas Workforce Commission).

The Tow Truck program is transferred to the Texas Railroad Commission.

The Vehicle Storage Facility program is transferred to the Texas Railroad Commission.

Non-agricultural Public Warehouse regulation is passed by the Legislature.

1995 Regulation of Non-agricultural Public Warehouses is abolished by the Legislature.

The Manufactured Housing program is transferred to the Texas Department of Housing and Community Affairs.

1997 Water well drillers and pump installers programs are transferred from TNRCC.

Transportation service providers program regulation is passed by the Legislature.

1999 The enabling statute for the Department is re-codified in Chapter 51, Texas Occupations Code, and the prior enabling law in Article 9100, Texas Civil Statutes, is repealed.

Service Contract Providers program regulation is passed by the Legislature.

Coalition of Texans with Disabilities v. Texas Commission of Licensing and Regulation, No. 03-99-00064-CV (Tex. App. – Austin 1999). The Coalition filed suit against the Commission, seeking a declaratory judgment concerning the exemption in Section 2(g) of the Architectural Barriers Act, Article 9102, Texas Civil Statutes, for “places that are used primarily for religious rituals within either a building or a facility of a religious organization.” The District Court granted summary judgment in favor of the Department. The Court of Appeals reversed the District Court’s decision and held that the Legislature did not intend to exempt entire religious buildings and facilities from Article 9102, but only the places within the buildings or facilities used for religious rituals. TDLR subsequently adopted rules following the guidance of the appellate court.

2000 *Coalition of Texans with Disabilities v. Texas Commission of Licensing and Regulation*, No. 99-08518 (53rd Dist. Ct., Travis County, Tex. June 22, 2000). The Coalition filed suit against the Commission, seeking a writ of mandamus, declaratory judgment, injunctive relief, and writ of prohibition for claims relating to controls and operating mechanisms for fuel pumps under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The parties resolved their concerns prior to trial and executed a Release and Settlement Agreement dismissing the case.

As part of its continuing efforts to reorganize along functional lines, TDLR transferred the architectural barriers project registration and elevator certification functions from the Code Review and Inspection Division to the Licensing and e-Commerce Division.

TDLR was one of six agencies involved in the pilot project for Texas Online, the main web site portal for services offered by the state. As part of this project, TDLR developed online Air Conditioning and Refrigeration contractor license renewal.

2001 Court Interpreters program regulation is passed by the Legislature. It is effective September 1, 2001.

Vehicle protection products program regulation is passed by the Legislature. It is effective September 1, 2001.

The Weather Modification program is transferred from TNRCC. It is effective September 1, 2001.

The Legislature granted TDLR authority to register and regulate plan reviewers and inspectors in the Architectural Barriers program.

2001 The Legislature increased the maximum penalty authority in Chapter 51, Texas Occupations Code, from \$1,000 to \$5,000 per violation per day, for programs administered by TDLR which do not already have maximum penalty amounts by the provisions of their governing statutes or codes.

III. Policymaking Structure

A. Please complete the following chart:

Texas Department of Licensing and Regulation Chart 3: Policymaking Body				
Member Name	Term/ Appointment Dates/Appointed by Governor	Qualifications	Address	Telephone Number Fax Number
William Fowler Chairman	6 year term 2/1/01 - 2/01/07	Represents the Public	P.O. Box 106 Llano, TX 78643	Not Available
Mickey Christakos Vice Chairman	6 year term 2/1/97 - 2/1/03	Represents the Public	1505 W. McDermott #125 Allen, TX 75013	Not Available
Elliott B. McConnell	6 year term 2/1/97 - 2/1/03	Represents the Public	P.O. Box 247 Fulton, TX 78358	Not Available
Gina Parker	6 year term 2/1/01 - 2/1/07	Represents the Public	3302 W. Waco Drive Waco, TX 76710	Not Available
Patricia Stout	6 year term 2/1/99 - 2/1/05	Represents the Public	9000 Wurzbach San Antonio, TX 78240	Not Available
Leo Vasquez	6 year term 2/1/99 - 2/1/05	Represents the Public	Not Available	Not Available

B. How is the chair of the policymaking body appointed?

The Chairman is elected by the Commission and serves a two-year term.

C. Describe the primary role and responsibilities of the policymaking body.

The primary role of the Texas Commission of Licensing and Regulation (TCLR) is to oversee and manage the Executive Director's administration of the Department (Section 51.201 of the Texas Occupations Code). Its major responsibilities under this role include selecting the Executive Director, formulating policy objectives for the Department, and approving the Department's operating budget and Legislative Appropriations Request. Other responsibilities include adopting fees and making the final ruling on contested disciplinary actions. Additionally, individual Commissioners have provided the Department guidance in specific areas, such as assisting in creating its personnel manual and gaining expertise in some programs. Furthermore, the Commission reviews and confirms the investment policy and strategy for the Auctioneer Education and Recovery Fund pursuant to the Public Funds Investment Act.

D. List any special circumstances or unique features about the policymaking body or its responsibilities.

Unlike many other state commissions, TCLR's membership does not include representatives of regulated industries. A person is not eligible for appointment to the Commission, if the person or their spouse:

- ? is regulated by the Department;
- ? is employed by a business or organization regulated by the Department;
- ? owns or controls more than a 10 % interest in a business or organization regulated by the Department;
- ? uses or receives a substantial amount of goods, services or funds other than reimbursements or compensations allowed by law for Commission membership, attendance or expenses;
- ? is an officer, employee or paid consultant of a trade association in a field regulated by the Department;
- ? is an employee of the Department; or
- ? is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Commission or Department.

E. In general, how often does the policymaking body meet? How many times did it meet in FY 2000? In FY 2001?

The Commission meets at least quarterly. The Commission met 6 times in FY 2000 and 5 times in FY 2001.

F. What type of training do the agency's policymaking body members receive?

Each current Commission member has satisfied the training requirements of the Public Funds Investment Act. Commission members have also attended the "Seminar For New Board Members", sponsored by the Governor's Office. TDLR staff provides briefings and training designed to educate Commission members on the Department programs and procedures.

G. Does the agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, please describe these policies.

The Commission has developed and adopted policy objectives that chart the course for the Executive Director and staff. The Commission objectives direct the Department to:

- ? manage with the highest ethical standards;
- ? perform licensing, inspection and investigation functions expeditiously and consistently;
- ? apply consistent penalties and sanctions;
- ? educate the public and industries about TDLR and its responsibilities;
- ? initiate and maintain a working relationship and offer distinctive expertise to the Governor's office, the Legislature, and other regulatory agencies;
- ? hire, train, and retain the highest qualified individuals and compensate employees objectively;
- ? employ objective, fair, and common sense standards and procedures; and
- ? encourage and reward innovation.

A specific example is a resolution from the Commission, directing the Executive Director to act on its behalf with respect to the day-to-day functions of the Architectural Barriers program.

H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart.

Texas Department of Licensing and Regulation Chart 4: Advisory Committees			
Name of Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
Air Conditioning and Refrigeration Contractors Advisory Board	? Six members ? Composition: a. A class A licensed contractor from a municipality with population greater than 250,000, employs organized labor, and a registered professional engineer. b. A class A licensed contractor from a municipality with population greater than 25,000 but less than 250,000. c. A class B licensed contractor from a municipality with population not more than 25,000. d. A class B licensed contractor from a municipality with population greater than 250,000. e. An Official of Municipality with population not more than 250,000. f. An Official of Municipality with population greater than 250,000. ? Appointed by the Governor	Advise the Executive Director in adopting rules and enforcing and administering this Act and to advise the Commission in setting fees.	Texas Civil Statutes, Article 8861, §3A
Architectural Barriers Advisory Committee	? Nine members ? Composition: a. Four building professionals. b. Five persons with disabilities. ? Appointed by the Commission	Review the rules relating to the architectural barriers program and recommend changes in the rules to the Commission and the Executive Director. The Commission shall submit all proposed changes to rules and procedures that relate to the architectural barriers program to the committee for review and comment before adoption or implementation of the new or amended rule or procedure.	Texas Civil Statutes, Article 9102, §7

<p>Auctioneer Education Advisory Board</p>	<p>? Eight members ? Composition: a. Three licensed auctioneers. b. Three consumers. c. The Executive Director of the Department of Economic Development or designee. d. The Commissioner of the Texas Workforce Commission or designee. ? Appointed by the Executive Director</p>	<p>Advise the Executive Director on educational matters, evaluate educational programs, seminars, and training projects; and make recommendations to the Executive Director on their usefulness and merit as continuing education tools.</p>	<p>Texas Occupations Code, §1802.102</p>
<p>Board of Boiler Rules</p>	<p>? Nine members ? Composition: a. Three members representing persons who own or use boilers in this state. b. Three members representing companies that insure boilers in this state. c. One member representing boiler manufacturers or installers. d. One member who is a mechanical engineer and a member of the faculty of a recognized college of engineering in this state. e. One member representing a labor union. ? Appointed by Executive Director</p>	<p>Advise the Executive Director in the adoption of definitions and rules relating to the safe construction, installation, inspection, operating limits, alteration, and repair of boilers and their appurtenances.</p> <p>The Chief Boiler Inspector serves as the Chairman of the Board of Boiler Rules.</p>	<p>Texas Health and Safety Code, §755.011</p>

Elevator Advisory Board	<p>? 13 members</p> <p>? Composition:</p> <ul style="list-style-type: none"> a. One insurance industry inspector or a certified elevator inspector. b. One representative of elevator, escalator, and related equipment constructor. c. One owner or manager of buildings having fewer than six stories and having an elevator, an escalator, or related equipment. d. One owner or manager of buildings having six stories or more and having an elevator, an escalator, or related equipment e. One representative of an independent elevator, escalator, and related equipment maintenance company. f. One representative of an elevator, escalator, and related equipment manufacturer. g. One representative of professional engineers or architects. h. Four public members. i. Two public members with a physical disability. <p>? Appointed by the Executive Director.</p>	Advise the Executive Director on the adoption of appropriate standards for the installation, alteration, operation, and inspection of elevators, escalators, and related equipment; the status of elevators, escalators, and related equipment used by the public in this state; and any other matter considered relevant by the Executive Director.	Texas Health and Safety Code, §754.012
Industrialized Building Code Council	<p>? 12 members</p> <p>? Composition:</p> <ul style="list-style-type: none"> a. Three members must represent the industrialized housing and buildings industries. b. Three members must represent municipal building officials from cities with a population of more than 25,000. c. Three members must represent general contractors who are builders of housing or buildings constructed on-site. d. One member must be a professional structural engineer registered or licensed in this state. e. One member must be a professional electrical engineer registered or licensed in this state. f. One member must be a professional architect registered or licensed in this state. <p>? Appointed by Governor</p>	Approves program decisions, actions, and interpretations that are binding on the Department, third-party agencies and municipalities and other local political subdivisions.	Texas Civil Statutes, Article 5221f-1, §5

<p>Property Tax Consultants Advisory Council</p>	<p>? Six members ? Composition: a. Three registered property tax consultants. b. Three consumers of services. ? Appointed by the Commission</p>	<p>Recommend to the Executive Director standards of practice, conduct, and ethics for registrants; recommend to the Commission amounts for the fees it may set under this Article; recommend to the Executive Director contents for the senior property tax consultant registration examination and standards of acceptable performance; assist and advise the Executive Director in recognizing continuing education programs and educational courses for registrants; and advise the Executive Director in establishing educational requirements for initial applicants.</p>	<p>Texas Civil Statutes, Article 8886, §10</p>
<p>Service Contract Providers Advisory Council</p>	<p>? Six members ? Composition: a. Two members must be officers, directors, or employees of a provider of service contracts that have been approved by the Executive Director. b. Two members must be officers, directors, or employees of a retail outlet or other entity located in this state that provides to consumers service contracts approved by the Executive Director for sale to consumers. c. One member must be an officer, director, or employee of an entity approved by the Texas Department of Insurance to sell reimbursement insurance policies. d. One member must be a resident of this state who has, as a consumer, a service contract in force in this state at the time of the appointment that is issued by a provider registered under this Article. ? Appointed by Executive Director</p>	<p>Advise the Executive Director in adopting rules and enforcing and administering the Article and advise the Commission in setting fees.</p>	<p>Texas Civil Statutes, Article 9034, §4</p>

Water Well Drillers Advisory Council	<ul style="list-style-type: none"> ? Nine members ? Composition: <ul style="list-style-type: none"> a. Six members shall be licensed drillers who are residents of this state, experienced in the well drilling business, and conversant in well drilling, completion, and plugging methods and techniques: <ol style="list-style-type: none"> 1. One driller selected from the state at large. 2. One driller from the Gulf Coast area. 3. One driller from the Trans-Pecos area. 4. One driller from the Central Texas area. 5. One driller from the Northeast Texas area. 6. One driller from the Panhandle-South Plains area. b. Three members must be representatives of the public. ? Appointed by Executive Director 	Advise the Department on contents of the licensing examination and assist the Department in the evaluation of continuing education programs. Propose rules for adoption by the Department relating to the regulation of registered drillers. Hear consumer complaints and make recommendations to the Department as to their disposition.	Texas Water Code, §32.006
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I. How does the policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of the agency?

The policymaking group obtains public input through Commission meetings, focus groups, rulemaking process, complaint resolution process, advisory boards, consumer satisfaction surveys, and staff interaction.

Quarterly Commission meetings provide public with an opportunity to interact with Commission members. TDLR broadcasts Commission proceedings live on the web via Real Audio and archives them on its web site.

The Commission utilizes focus groups to provide detailed industry and consumers perspective on specific and general agency administration. For example, focus groups are at the core of TDLR's strategic planning process. To ensure all view points are represented, the Department invites a broad cross-section of groups affected by the Department's regulations. During this last strategic planning cycle, TDLR mailed invitations to over 1,000 interested parties and posted invitations on its web site. Five focus groups were held, each with Commission member participation. Subsequently, the Department presented a draft of the strategic plan, which incorporated input from the focus groups, to the Commission for final review and approval.

As part of the state's rule making process, the Commission receives public comments on proposed rules prior to adoption. When appropriate during the rule development process, the Department solicits input and participation from program advisory boards and industry focus groups.

The complaint resolution process provides another avenue for the Commission to receive public input regarding the effectiveness and fairness of the Department's enforcement activities. During Commission meetings, the members make a final ruling on contested cases.

The Commission relies on the programs' advisory boards, comprised of industry and public members, to provide technical knowledge of the individual programs. Since the enabling statute prohibits Commission members from involvement in any regulated industry, the expert advice provided by these advisory boards is crucial.

Finally, the Commission indirectly receives public input through interaction with Department staff. The Department periodically conducts consumer surveys to measure satisfaction with the agency and its operations and shares the

data and results with the Commission. Also, the Department provides the Commission with any relevant comments received through the TDLR web site.

IV. Funding

A. Describe the agency's process for determining budgetary needs and priorities.

The strategic planning process is the foundation upon which TDLR establishes its budgetary needs and priorities. Through external and internal strategic planning focus groups, the agency gathers information relating to short and long term trends that will impact the various industries regulated by the Department. The next step in the budgetary process involves the formulation of TDLR's Legislative Appropriations Requests (LAR). The LAR converts TDLR's strategic goals into quantifiable budgetary priorities for a two-year period.

B. Show the agency's sources of revenue. Please include all local, state, and federal sources.

Texas Department of Licensing and Regulation Chart 5: Sources of Revenue - Fiscal Year 2000 (Actual)	
Source	Amount
General Revenue	\$8,409,514
Appropriated Receipts	\$ 19,728
Interagency Contracts	\$ 16,289
Auctioneer Education and Recovery Trust Fund No. 0898	\$ 55,857
TOTAL	\$8,501,388

C. If you receive funds from multiple federal programs, show the types of federal funding sources.

Texas Department of Licensing and Regulation Chart 6: Federal Funds - Fiscal Year 2000 (Actual)				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
N/A				
TOTAL		\$0	\$0	\$0

D. Show the agency's expenditures by strategy.

Texas Department of Licensing and Regulation Chart 7: Expenditures by Strategy - Fiscal Year 2000 (Actual)	
Goal/Strategy	Amount
Goal A: Licensing	Goal A: Total \$ 660,814
License/Register/Certify	\$ 440,222
Examinations	\$ 134,700
Distribute Information	\$ 85,892
Goal B: Enforcement	Goal B: Total \$ 4,160,370
Conduct Inspections	\$ 2,668,213
Resolve Complaints	\$ 1,492,157

Goal C: Indirect Administration	Goal C: Total \$ 1,215,686
Central Administration	\$ 676,639
Information Resources	\$ 400,501
Other Support Services	\$ 138,546
GRAND TOTAL	\$ 6,036,870

E. Show the agency's expenditures and FTEs by program.

Texas Department of Licensing and Regulation					
Chart 8: Expenditures and FTEs by Program - Fiscal Year 2000 (Actual)					
Program	Budgeted FTEs, FY 2000	Actual FTEs as of August 31, 2000	Federal Funds Expended	State Funds Expended	Total Actual Expenditures
Air Conditioning and Refrigeration	N/A*	N/A	N/A	\$ 732,346	\$ 732,346
Architectural Barriers	N/A	N/A	N/A	\$ 2,150,338	\$ 2,150,338
Auctioneers	N/A	N/A	N/A	\$ 105,981	\$ 105,981
Boiler	N/A	N/A	N/A	\$ 1,482,131	\$ 1,482,131
Career Counseling	N/A	N/A	N/A	\$ 19,244	\$ 19,244
Combative Sports (Boxing)	N/A	N/A	N/A	\$ 216,079	\$ 216,079
Elevators	N/A	N/A	N/A	\$ 462,765	\$ 462,765
Industrialized Housing and Buildings	N/A	N/A	N/A	\$ 213,126	\$ 213,126
Personnel Employment Services	N/A	N/A	N/A	\$ 8,879	\$ 8,879
Property Tax Consultants	N/A	N/A	N/A	\$ 17,217	\$ 17,217
Service Contract Providers	N/A	N/A	N/A	\$ 44,892	\$ 44,892
Staff Leasing Services	N/A	N/A	N/A	\$ 99,646	\$ 99,646
Talent Agencies	N/A	N/A	N/A	\$ 16,077	\$ 16,077
Temporary Common Workers	N/A	N/A	N/A	\$ 7,935	\$ 7,935
Transportation Service Providers	N/A	N/A	N/A	\$ 4,394	\$ 4,394
Water Well Drillers and Pump Installers	N/A	N/A	N/A	\$ 455,821	\$ 455,821

*TDLR allocates its FTEs by strategy, see chart 13 for budgeted and actual FTEs.

F. If applicable, please provide information on fees collected by the agency.

**Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000**

Air Conditioning and Refrigeration Contractors

Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Class A or B Initial License, § 4(g), Article 8861, Texas Civil Statutes	\$350 ⁽⁴⁾ /None (3-yr license)	4923	\$1,136,429	General Revenue Fund
Class A or B Late Fee, § 51.202(a)(2), Texas Occupations Code	\$50/None			
Fee for Lost, Revised or Duplicate License, or Wallet Card, § 51.202(a)(4), Texas Occupations Code	\$25/None			
Fee for Addition of an Endorsement, § 51.202(a)(4), Texas Occupations Code	\$25/None			
License Reprint, § 51.202(a)(4), Texas Occupations Code	\$25/None			
Class A or B License Renewal, § 4(h), Article 8861, Texas Civil Statutes	\$350 ⁽⁴⁾ /None (3-yr license)			
Class A or B Examination Application Fee, § 4(f)(2) & (g), Article 8861, Texas Civil Statutes	\$50/None	1,847	\$ 196,091	General Revenue Fund
Class A or B Examination Reschedule Fee, § 51.202(a)(3), Texas Occupations Code	\$30/None	64	\$ 1,930	General Revenue Fund
Certificate of Registration Fee, § 51.202(a)(4), Texas Occupations Code	\$25/None	885	\$ 22,138	General Revenue Fund

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 75.80, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

⁽⁴⁾ The Class A or B initial license fee and the Class A or B license renewal fee changed to \$125 effective September 1, 2001. The license term changed to one year, also effective September 1, 2001.

Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000

Architectural Barriers				
Description/ Statutory Citation ⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities paying fee ⁽²⁾	Fee Revenue ⁽³⁾	Where Fee Revenue Is Deposited
Preliminary Review Fee, § 6, Article 9102, Texas Civil Statutes	\$145/None	2,060	\$ 499,638	General Revenue Fund
Late Review Fee, § 6, Article 9102, Texas Civil Statutes	\$350-\$2,200 ⁽⁴⁾ / None			
Review Fee, § 6, Article 9102, Texas Civil Statutes	\$250-\$1,175 ⁽⁴⁾ / None			
Special Inspection Fee, § 6, Article 9102, Texas Civil Statutes	\$215 per hour, 2-hr minimum/ None	1,575	\$ 507,377	General Revenue Fund
Inspection of State Leases, § 6, Article 9102, Texas Civil Statutes	\$225 per lease/None			
Inspection Fee, § 6, Article 9102, Texas Civil Statutes	\$350-\$1,175 ⁽⁴⁾ / None			
Variance Application Fee, § 6, Article 9102, Texas Civil Statutes	\$150 each/ None	1,127	\$ 118,170	General Revenue Fund
Variance Appeal, § 6, Article 9102, Texas Civil Statutes	\$200/None	76	\$ 12,100	General Revenue Fund
Project Filing Fee, § 6, Article 9102, Texas Civil Statutes	\$75 ⁽⁵⁾ /None	9,920	\$ 493,000	General Revenue Fund
Project Information Request, § 6, Article 9102, Texas Civil Statutes	\$35/None	0	\$0	General Revenue Fund
Inspection Filing Fee, § 6, Article 9102, Texas Civil Statutes	\$50 ⁽⁵⁾ /None	4,262	\$ 135,050	General Revenue Fund
Replacement Certificate, § 6, Article 9102, Texas Civil Statutes	\$25/None	0	\$0	General Revenue Fund

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 66.80, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

⁽⁴⁾ Fee amounts vary depending on construction costs. See table below.

⁽⁵⁾ These fees were increased effective December 1, 2000: the project filing fee to \$100; and the inspection filing fee to \$75.

<u>Construction Cost</u>	<u>Review Fee</u>	<u>Late Review Fee</u>	<u>Inspection Fee</u>
\$ 50,000 - \$ 200,000	\$ 250	\$ 350	\$ 350
\$ 200,001 - \$ 500,000	\$ 315	\$ 480	\$ 375
\$ 500,001 - \$ 1,000,000	\$ 380	\$ 610	\$ 400
\$ 1,000,001 - \$ 5,000,000	\$ 445	\$ 740	\$ 445
\$ 5,000,001 - \$10,000,000	\$ 575	\$1,000	\$ 575
\$10,000,001 - \$15,000,000	\$ 620	\$1,090	\$ 620
\$15,000,001 - \$25,000,000	\$ 785	\$1,420	\$ 785
\$25,000,001 - \$50,000,000	\$ 955	\$1,760	\$ 955
\$50,000,001 - \$75,000,000	\$1,175	\$2,200	\$1,175
>\$75,000,000	Contact TDLR for negotiated fee		

Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000

Auctioneers				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Duplicate License Fee, § 51.202, Texas Occupations Code	\$25/None	2994	\$ 298,025	General Revenue Fund
Late Fee, § 51.202, Texas Occupations Code	\$50/None			
Auctioneer License Renewal, § 51.202, Texas Occupations Code	\$100/None			
Auctioneer License, § 1802.054(2), Texas Occupations Code	\$100/None			
Associate Auctioneer License Renewal, § 51.202, Texas Occupations Code	\$50/None	243	\$ 8,800	General Revenue Fund
Associate Auctioneer License, § 1802.054(2), Texas Occupations Code	\$50/None			
Exam Fee, § 1802.055(a), Texas Occupations Code	\$50/None		\$ 10,900	General Revenue Fund
Education and Recovery Fee, § 1802.153, Texas Occupations Code ⁴	\$100/None		\$ 26,450	Auctioneer Education and Recovery Fund (Fund 0898)

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 67.40 and Sec. 67.80-67.83, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

⁽⁴⁾ Educational Recovery fee is set by statute for new licensees. Assessments are made when necessary to replenish the fund; the current assessment is \$50.

**Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000**

Boiler Inspection				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Inspection Fee - Authorized Inspector, § 755.030(a), Texas Health & Safety Code	\$45/None	24,192	\$1,571,243	General Revenue Fund
Inspection Fee-All Boilers Other Than Heating Boilers, § 755.030(a), Texas Health & Safety Code	\$115/None			
Inspection Fee-Heating Boilers With Manhole, § 755.030(a), Texas Health & Safety Code	\$115/None			
Inspection Fee-Heating Boilers Without Manhole, § 755.030(a), Texas Health & Safety Code	\$85/None			
Special Inspection, § 755.030(a), Texas Health & Safety Code	\$650+Travel/ None	315	\$ 130,650	General Revenue Fund
Replacement-Certificate Only, § 755.030(a), Texas Health & Safety Code	\$10/None	107	\$ 4,708	General Revenue Fund
Replacement-Card Only, § 755.030(a), Texas Health & Safety Code	\$10/None			
Replacement-Certificate and Card, § 755.030(a), Texas Health & Safety Code	\$25/None			
Late Renewal Fee, § 755.030(a), Texas Health & Safety Code	\$12.50 Add'l/ None			
Reinstatement Fee, § 755.030(a), Texas Health & Safety Code	\$25/None			
New Commission Fee, § 755.030(a), Texas Health & Safety Code	\$25/None			
Commission Renewal Fee, § 755.030(a), Texas Health & Safety Code	\$10/None	45	\$ 4,550	General Revenue Fund
National Board Exam Administration, § 755.030(a), Texas Health & Safety Code	\$25/None			
American Petroleum Institute (API) 510 Exam Administration, § 755.030(a), Texas Health & Safety Code	\$50/None			
Examination Fee, § 755.030(a), Texas Health & Safety Code	\$25/None			

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 65.80, 16 Texas Administrative code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000

Career Counseling Services				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Late Fee, Article 5221a-8, Section 3(a), Texas Civil Statutes	\$50/None	6	\$ 13,775	General Revenue Fund
Reprint Fee, Article 5221a-8, Section 3(a), Texas Civil Statutes	\$25/None			
Original Certificate of Authority, Article 5221a-8, Section 3(a), Texas Civil Statutes	\$750 ⁽⁴⁾ /None			
Renewal Certificate of Authority, Article 5221a-8, Section 3(a), Texas Civil Statutes	\$750 ⁽⁴⁾ /None	15		

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 62.80, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

⁽⁴⁾ The original certificate of authority fee and the renewal certificate of authority fee increase to \$1,000 effective September 1, 2001.

Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000

Combative Sports (Boxing)				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Promoter License, § 2052.102, Texas Occupations Code	\$1,000/\$1,000	20	\$ 20,000	General Revenue Fund
Contestant License, § 2052.108, Texas Occupations Code	\$30 ⁽⁴⁾ /None	752	\$ 25,230	General Revenue Fund
Manager License, § 2052.108, Texas Occupations Code	\$150 ⁽⁴⁾ /None	34	\$ 4,950	General Revenue Fund
Second License, § 2052.108, Texas Occupations Code	\$20 ⁽⁴⁾ /None	429	\$ 8,740	General Revenue Fund
Matchmaker License, § 2052.108, Texas Occupations Code	\$150 ⁽⁴⁾ /None	2	\$ 300	General Revenue Fund
Referee License, § 2052.108, Texas Occupations Code	\$50 ⁽⁴⁾ /None	23	\$ 1,100	General Revenue Fund
Judge License, § 2052.108, Texas Occupations Code	\$30 ⁽⁴⁾ /None	58	\$ 1,680	General Revenue Fund
Timekeeper License, § 2052.108, Texas Occupations Code	\$20 ⁽⁴⁾ /None	24	\$ 480	General Revenue Fund
Each Additional Endorsement, § 2052.108, Texas Occupations Code	\$50/None	0	\$0	General Revenue Fund
Two-year Federal ID Card, § 51.202, Texas Occupations Code	\$20/None	0	\$ 0	General Revenue Fund
Permit Fee per Live Event, § 2052.102, Texas Occupations Code	\$500/None	0	\$ 0	General Revenue Fund
Visiting Ring Official, Single Event, § 2052.108, Texas Occupations Code	\$50	0	\$0	General Revenue Fund
Gross Receipts Tax, § 2052.151, Texas Occupations Code	3%		\$94,359	General Revenue Fund

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 61.80, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

⁽⁴⁾ These fees were increased effective October 1, 2000: the contestant license fee to \$40; the manager license fee to \$200; the second license fee to \$30; the matchmaker license fee to \$175; the referee license to \$250; the judge license fee to \$200; and the timekeeper license fee to \$40.

Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000

Elevator, Escalators, and Related Equipment

Description/ Statutory Citation	Current Fee/ Statutory Maximum	Number of persons or entities paying fee ⁽¹⁾	Fee Revenue ⁽²⁾	Where Fee Revenue Is Deposited
Inspector Registration, § 754.017(c), Texas Health & Safety Code	\$15/\$15	31	\$ 2,985	General Revenue Fund
Inspector Registration Renewal, § 754.017(c), Texas Health & Safety Code	\$15/\$15	66		
Filing Fee, § 754.019(a)(3), Texas Health & Safety Code	\$20 per building + \$5 per elevator/\$20 per building + \$5 per elevator	11,338	\$426,002	General Revenue Fund
Late Filing Fee, § 754.019(e), Texas Health & Safety Code	\$100/\$100		\$ 99,075	General Revenue Fund
Tag Kit⁽³⁾ § 51.202, Texas Occupations Code	\$200 per kit/None	0	\$0	General Revenue Fund
Seal Crimping Tool⁽³⁾ § 51.202, Texas Occupations Code	\$90/None	0	\$0	General Revenue Fund
Waiver/Delay Application Fee ⁽³⁾ § 754.014(j), Texas Health & Safety Code	\$100 ⁽⁴⁾ /None	1,024	\$ 102,400	General Revenue Fund

⁽¹⁾ Counts were obtained from licensing system reports.

⁽²⁾ Revenue amounts were obtained from cash receipts system reports.

⁽³⁾ Actual fees are set by Rule. See administrative Rules, Sec. 74.80(c) and (d), 16 Texas Administrative Code.

⁽⁴⁾ The waiver/delay application fee was lowered to \$50 effective December 1, 2000.

**Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000**

Industrialized Housing and Buildings				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Manufacturer's Registration Fee, § 7, Article 5221f-1, Texas Civil Statutes	\$750/None	73	\$ 63,200	General Revenue Fund
Industrialized Builder's Registration Fee, § 7, Article 5221f-1, Texas Civil Statutes	\$375/None	105	\$ 44,575	General Revenue Fund
Design Review Agency's Registration Fee, § 7, Article 5221f-1, Texas Civil Statutes	\$300/None	6	\$ 2,850	General Revenue Fund
Third-party Inspection Agency's Registration Fee, § 7, Article 5221f-1, Texas Civil Statutes	\$150 per firm & \$100 per inspector/None	63	\$ 7,400	General Revenue Fund
Certification Inspection Performed by TDLR, § 7, Article 5221f-1, Texas Civil Statutes	\$40 per hour/None	16	\$30,018	General Revenue Fund
Decals, § 7, Article 5221f-1, Texas Civil Statutes	\$.07 per ft ² floor area, \$25 minimum/None	6,680	\$284,657	General Revenue Fund
Insignias, § 7, Article 5221f-1, Texas Civil Statutes	\$.02 per ft ² surface area/ \$.60 minimum/None, or \$.07 per ft ² floor area/\$15 minimum/None	2	\$ 30	General Revenue Fund
Special Inspections Performed by TDLR, § 7, Article 5221f-1, Texas Civil Statutes	\$40 per hour/None	0	\$0	General Revenue Fund
Monitoring of Design Review Agencies and Third-party Inspection Agencies, § 7, Article 5221f-1, Texas Civil Statutes	\$40 per hour/None	12	\$5,915	General Revenue Fund
Installation Permit, § 7, Article 5221f-1, Texas Civil Statutes	\$75 per building/None	69	\$ 6,375	General Revenue Fund

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 70.80, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000

Personnel Employment Services				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Personnel Employment Services License, § 7(b), Article 5221a-7, Texas Civil Statutes	\$75/None	43	\$ 31,325	General Revenue Fund
License Renewal, § 7(e), Article 5221a-7, Texas Civil Statutes	\$75/None	354		
Late Fee, §7(b), Article 5221a-7, Texas Civil Statutes	\$50/None			
Duplicate License Fee, § 7(b), Article 5221a-7, Texas Civil Statutes	\$25/None			

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 63.80, Sec. 63.81 and Sec. 63.82, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000

Property Tax Consultants				
Description/ Statutory Citation ⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee ⁽²⁾	Fee Revenue ⁽³⁾	Where Fee Revenue Is Deposited
PTC Application & Registration, § 5(a), Article 8886, Texas Civil Statutes	\$150/None ⁽⁴⁾	106	\$ 85,250	General Revenue Fund
Senior PTC Application & Registration, § 5(a), Article 8886, Texas Civil Statutes	\$225/None ⁽⁴⁾			
PTC Renewal Application & Registration, § 5(e), Article 8886, Texas Civil Statutes	\$150/None ⁽⁴⁾	412		
Senior PTC Renewal Application & Registration, § 5(a), Article 8886, Texas Civil Statutes	\$150/None ⁽⁴⁾			
Duplicate Registration, § 5(a), Article 8886, Texas Civil Statutes	\$50/None			
Real Estate Only PTC Renewal Application & Registration, § 5(e), Article 8886, Texas Civil Statutes	\$150/None ⁽⁴⁾			
Registration Upgrade Application Under 1 Year, § 5(a), Article 8886, Texas Civil Statutes	\$25/None			
Upgrade Application, § 5(a), Article 8886, Texas Civil Statutes	\$125/None			
Late Renewal, § 5(g), Article 8886, Texas Civil Statutes	\$50/None	0		
Real Estate Only PTC Application & Registration, § 5(a), Article 8886, Texas Civil Statutes	\$150/None ⁽⁴⁾			
Refundable Examination, § 4(c), Article 8886, Texas Civil Statutes	\$150/None	14	\$1,950	General Revenue Fund
Education Provider Application & Registration, §§ 6(d)(2) & (3), Article 8886, Texas Civil Statutes	\$200/None ⁽⁴⁾	19	\$ 1525	General Revenue Fund

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 66.80-66.85, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

⁽⁴⁾ Registration fees are refundable.

**Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000**

Service Contract Providers				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Registration Fee, § 5(c), Article 9034, Texas Civil Statutes	\$750-\$1,900/ \$2,000	132	\$ 168,950	General Revenue Fund
Duplicate/Amended Registration, § 5(c) Article 9034, Texas Civil Statutes	\$50/None			General Revenue Fund

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 77.80, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

**Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000**

Staff Leasing				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Application & Administration Fee, § 91.017(b), Texas Labor Code	\$300/None	125	\$ 401,987	General Revenue Fund
Renewal Application & Administration Fee, § 91.017(b), Texas Labor Code	\$300/None			
Limited License Application & Administration Fee, § 91.017(b), Texas Labor Code	\$300/None			
Limited License Fee(1-year), § 91.017(b), Texas Labor Code	\$1,000/\$6,000			
Background Check, § 91.017(b), Texas Labor Code	\$150/None			
Duplicate License Fee, § 91.017(b), Texas Labor Code	\$50/None			
License Name Change, § 91.017(b), Texas Labor Code	\$50/None			
Additional Trademark Fee, § 91.017(b), Texas Labor Code	\$10/None			
License Fee (2-years), § 91.017(b), Texas Labor Code	\$3,000-\$5,000/ \$6,000			

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 72.80-72.83, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

**Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000**

Talent Agencies				
Description/ Statutory Citation	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽¹⁾	Fee Revenue⁽²⁾	Where Fee Revenue Is Deposited
Late Fee, § 2105.055(c), Texas Occupations Code ⁽³⁾	\$50/None	21	\$ 41,050	General Revenue Fund
Duplicate License Fee, §§ 2105.053 & 2105.055, Texas Occupations Code ⁽³⁾	\$25/None			
Registration & Admin Fee ⁽³⁾ , § 2105.053, Texas Occupations Code	\$500 ⁽⁴⁾ /None			
Registration & Admin Renewal Fee ⁽³⁾ , § 2105.055, Texas Occupations Code	\$500 ⁽⁴⁾ /None			
Update Registration, § 2105.053, Texas Occupations Code	\$100/\$100			
Talent Agents License Fee, § 2105.053, Texas Occupations Code	\$100/\$100	66		
Renewal License Fee, § 2105.055(c), Texas Occupations Code	\$100/\$100			

⁽¹⁾ Counts were obtained from licensing system reports.

⁽²⁾ Revenue amounts were obtained from cash receipts system reports.

⁽³⁾ Actual fees are set by Rule. See administrative Rules, Sec. 78.80 and Sec. 78.82, 16 Texas Administrative Code.

⁽⁴⁾ The registration & admin fee and the registration & admin renewal fee were lowered to \$300 effective September 26, 2000.

**Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000**

Temporary Common Worker Employers				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Employer License, § 92.014(a), Texas Labor Code	\$550/None	36	\$ 64,425	General Revenue Fund
Employer Renewal License, § 92.015(a), Texas Labor Code	\$550/None	84		

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 64.80, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000

Transportation Service Providers				
Description/ Statutory Citation⁽¹⁾	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee⁽²⁾	Fee Revenue⁽³⁾	Where Fee Revenue Is Deposited
Application Processing, § 4(a)(2), Article 6675(e), Texas Civil Statutes	\$320/None	81	\$29,585	General Revenue Fund
Renewal Processing Fee, § 4(d)(2), Article 6675(e), Texas Civil Statutes	\$320/None			
Certificate Fee, § 5, Article 6675(e), Texas Civil Statutes	\$50/None			
Duplicate Certificate Fee, § 5, Article 6675(e), Texas Civil Statutes	\$25/None			
Late Fee, § 4(d)(2), Article 6675(e), Texas Civil Statutes	\$50/None			

⁽¹⁾ Actual fees are set by Rule. See administrative Rules, Sec. 69.80, 16 Texas Administrative Code.

⁽²⁾ Counts were obtained from licensing system reports.

⁽³⁾ Revenue amounts were obtained from cash receipts system reports.

Texas Department of Licensing and Regulation
Chart 9: Fee Revenue and Statutory Fee Levels - Fiscal Year 2000

Water Well Drillers & Water Well Pump Installers

Description/ Statutory Citation	Current Fee/ Statutory Maximum	Number of persons or entities Paying fee	Fee Revenue	Where Fee Revenue Is Deposited
Application Exam Fee, §§ 32.002(c) & 33.002(c), Texas Water Code	\$125 ⁽¹⁾ /None	144	\$ 15,275	General Revenue Fund
Re-exam Fee, §§ 32.002(c) & 33.002(c), Texas Water Code	\$100 ⁽²⁾ /None			
Late Renewal (Expired 90 days or less), §§ 32.002(e) & 33.002(d), Texas Water Code	\$62.50 ⁽⁵⁾ /None	1319	\$ 429,309	General Revenue Fund
Late Renewal (Expired over 90 days), §§ 32.002(e) & 33.002(d), Texas Water Code	\$125 ⁽⁶⁾ /None			
Lost, Revised or Duplicate License, §§ 32.002(h) & 33.002(g), Texas Water Code	\$25/None			
Apprentice Registration Fee, §§ 32.002(i) & 33.002(h), Texas Water Code	\$50/None			
License Fee, §§ 32.002(c) & 33.002(c), Texas Water Code	\$170 ⁽³⁾ /None			
License Renewal, §§ 32.002(i) & 33.002(h), Texas Water Code	\$170 ⁽⁴⁾ /None			
Combination License Fee, §§ 32.002(c) & 33.002(c), Texas Water Code	\$220/None			
Combination Renewal Fee, §§ 32.002(c) & 33.002(c), Texas Water Code	\$220/None			
Variance Request Fee, §§ 32.002(i) & 33.002(h), Texas Water Code	\$100/None			

- (1) The application fee was increased to \$150 effective September 1, 2001.
- (2) The re-exam fee was increased to \$125 effective September 1, 2001.
- (3) The license fee was increased to \$200 effective September 1, 2001.
- (4) The renewal fee was increased to \$200 effective September 1, 2001.
- (5) The late renewal fee (expired 90 days or less) is set by statute at one-half of the examination fee; therefore, it increased to \$62.50 effective September 1, 2001.
- (6) The late renewal fee (expired over 90 days) is set by statute equal to the exam fee; therefore, it increased to \$125 effective September 1, 2001.

G. Please fill in the following chart.

Texas Department of Licensing and Regulation Chart 10: Purchases from HUBs				
FISCAL YEAR 1998				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	N/A	N/A	N/A	26.1%
Special Trade	\$ 595	\$ 0	0.0%	57.2%
Professional Services	\$ 2,595	\$ 0	0.0%	20.0%
Other Services	\$ 458,307	\$ 133,626	29.1%	30.0%
Commodities	\$ 417,989	\$ 309,755	74.1%	12.6%
TOTAL	\$ 879,486	\$ 443,381	50.4%	
FISCAL YEAR 1999				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	N/A	N/A	N/A	26.1%
Special Trade	\$ 17,992	\$ 17,992	100.0%	57.2%
Professional Services	\$ 6,484	\$ 0	0.0%	20.0%
Other Services	\$ 675,127	\$ 299,009	44.2%	30.0%
Commodities	\$ 329,576	\$ 130,462	39.6%	12.6%
TOTAL	\$1,029,179	\$ 447,463	43.5%	
FISCAL YEAR 2000				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	N/A	N/A	N/A	26.1%
Special Trade	\$ 577	\$ 0	0.0%	57.2%
Professional Services	\$ 11,970	\$ 0	0.0%	20.0%
Other Services	\$ 316,846	\$ 98,576	31.1%	30.0%
Commodities	\$ 223,172	\$ 93,192	41.7%	12.6%
TOTAL	\$ 552,565	\$ 191,768	34.7%	

H. Does the agency have a HUB policy? How does the agency address performance shortfalls related to the policy?

The Texas Department of Licensing and Regulation has adopted a HUB plan and is committed to offering contracting opportunities to all Texans. TDLR will comply with all requirements of S.B. 178, 76th Legislature, Regular Session, regarding the HUB program.

TDLR has consistently met its goal of awarding HUBs with at least 35% of the total value of the agency's annual purchasing and service contracts.

V. Organization

A. Please fill in the chart below. If applicable, list field or regional offices.

Texas Department of Licensing and Regulation Chart 11: FTEs by Location -- Fiscal Year 2000			
Headquarters, Region, Field Office or Location	Location	Number of Budgeted FTEs, FY 2000	Number of Actual FTEs As of August 31, 2000
Headquarters	Austin	113.5	112
Regional Office	Dallas	11	9
Regional Office	Houston	10	10
Field Office	San Antonio	6	5
Field Office	Wichita Falls	1	1
Field Office	Midland/Odessa	2	2
Field Office	Lubbock	1	1
TOTAL		144.5	140

B. What was the agency's FTE cap for FY 2000?

The agency's FTE cap for FY 2000 was 144.5.

C. How many temporary or contract employees did the agency have as of August 31, 2000?

The agency had 3 temporary employees as of August 31, 2000.

D. Please fill in the chart below.

Texas Department of Licensing and Regulation Chart 12: Equal Employment Opportunity Statistics FISCAL YEAR 1998							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force	Agency	Civilian Labor Force	Agency	Civilian Labor Force
Officials/Administration	19	5.26%	5%	21.05%	8%	26.31%	26%
Professional	36	8.33	7	11.11	7	77.77	44
Technical	56	7.14	13	10.71	14	23.21	41
Protective Services	N/A	N/A	13	N/A	18	N/A	15
Para-Professionals	7	0	25	28.57	30	85.71	55
Administrative Support	34	38.23	16	11.76	17	82.35	84
Skilled Craft	N/A	N/A	11	N/A	20	N/A	8
Service Maintenance	N/A	N/A	19	N/A	32	N/A	27

FISCAL YEAR 1999							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force	Agency	Civilian Labor Force	Agency	Civilian Labor Force
Officials/Administration	19	5.26%	5%	21.05%	8%	26.31%	26%
Professional	38	13.15	7	7.89	7	71.05	44
Technical	53	5.66	13	13.20	14	26.41	41
Protective Services	N/A	N/A	13	N/A	18	N/A	15
Para-Professionals	12	16.66	25	25	30	100	55
Administrative Support	25	44	16	24	17	84	84
Skilled Craft	N/A	N/A	11	N/A	20	N/A	8
Service Maintenance	N/A	N/A	19	N/A	32	N/A	27
FISCAL YEAR 2000							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force	Agency	Civilian Labor Force	Agency	Civilian Labor Force
Officials/Administration	11	18.18%	5%	0%	8%	36.36%	26%
Professional	31	9.67	7	22.58	7	38.70	44
Technical	65	4.61	13	12.30	14	23.07	41
Protective Services	N/A	N/A	13	N/A	18	N/A	15
Para-Professionals	38	23.68	25	18.42	30	94.73	55
Administrative Support	32	40.62	16	28.12	17	87.50	84
Skilled Craft	N/A	N/A	11	N/A	20	N/A	8
Service Maintenance	N/A	N/A	19	N/A	32	N/A	27

E. Does the agency have an equal employment opportunity policy? How does the agency address performance shortfalls related to the policy?

TDLR provides equal employment opportunities (EEO) to all employees and is committed to recruiting, selecting and retaining a diverse workforce representative of the state's labor force. Our EEO policy incorporates this philosophy and communicates to employees TDLR's commitment to exclude from our practices and working conditions all unlawful forms of prejudice or discrimination based upon race, color, national origin, sex, religion, age or mental or physical disability. Individuals who fail to comply with the EEO policy are subject to corrective actions or discipline as specified in TDLR's personnel policies.

VI. Guide to Agency Programs

A. Please complete the following chart.

Texas Department of Licensing and Regulation Chart 13: Strategy Information -- Fiscal Year 2000	
Name of Strategy	License/Register/Certify
Location/Division	Licensing & eCommerce
Contact Name	Don Dudley
Number of Budgeted FTEs, FY 2000	16.5
Number of Actual FTEs as of August 31, 2000	17
Name of Strategy	Examinations
Location/Division	Licensing & eCommerce
Contact Name	Don Dudley
Number of Budgeted FTEs, FY 2000	2
Number of Actual FTEs as of August 31, 2000	2
Name of Strategy	Distribute Information
Location/Division	Executive Office
Contact Name	Brian Francis
Number of Budgeted FTEs, FY 2000	1.5
Number of Actual FTEs as of August 31, 2000	1.5
Name of Strategy	Conduct Inspections
Location/Division	Code Review & Inspection Division
Contact Name	George Ferrie
Number of Budgeted FTEs, FY 2000	66
Number of Actual FTEs as of August 31, 2000	60
Name of Strategy	Resolve Complaints
Location/Division	Enforcement Division
Contact Name	Jimmy Martin
Number of Budgeted FTEs, FY 2000	34
Number of Actual FTEs as of August 31, 2000	35
Name of Strategy	Central Administration
Location/Division	Executive Office/Administration Division
Contact Name	Brian Francis/Carla Barron
Number of Budgeted FTEs, FY 2000	17.5
Number of Actual FTEs as of August 31, 2000	16.5
Name of Strategy	Information Resources
Location/Division	Information Services Division
Contact Name	Steven Wilkins
Number of Budgeted FTEs, FY 2000	7
Number of Actual FTEs as of August 31, 2000	7

Air Conditioning Contractors

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications, administers examinations, and issues licenses. TDLR issues two classes of one-year air conditioning and refrigeration contractor licenses and two types of endorsements. Class A licenses entitle contractors to perform air conditioning and refrigeration contracting on systems, products, or equipment of any size or capacity. Class B licenses entitle contractors to perform air conditioning and refrigeration contracting on systems, products, or equipment of not more than 25 tons cooling capacity or of not more than 1.5 million BTUs per hour output heating capacity. The Department offers endorsements for environmental air conditioning, commercial refrigeration, and a combination of the two. TDLR also issues one-time certificates of registration for the purchase of refrigerants.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the air conditioning and refrigeration industry. The most common complaints involve unlicensed activity, mechanical integrity, and failure to maintain liability insurance. The Department investigates and resolves complaints, conducts stings and hearings, issues cease and desist orders, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Air Conditioning and Refrigeration Contractors Advisory Board.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 8861, Texas Civil Statutes (the Act), took effect September 1, 1983.

The program was created to protect the consumers in this state who receive the services of air conditioning and refrigeration contractors.

A person engaging in the practice of air conditioning or refrigeration contracting in the state of Texas is required to hold a license issued by the Department (Section 3B of the Act). The licensee is required to register with municipal authorities responsible for mechanical code enforcement (Section 7 of the Act). The licensee is required to maintain commercial liability insurance (Texas Administrative Code, Title 16, Section 75.40). The licensee is required to display his license number and company name on all vehicles used in connection with air conditioning or refrigeration work, and display the license number in any advertising (Texas Administrative Code, Title 16, Section 75.70(i) and (j)). The licensee is required to provide the Department's name, address, and telephone number on all invoices and written proposals (Texas Administrative Code, Title 16, Section 75.70(k)). An individual who is exempt from the licensing requirement must obtain a certificate of registration from the Department in order to purchase refrigerants in the state of Texas (Section 10 of the Act).

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

Prior to 1983 air conditioning regulation existed in several municipalities. The Air Conditioning statute extended protection to all citizens of the state, whether they lived within a municipality or an unincorporated area.

The original bill established but did not require Class A and Class B licenses for persons performing environmental air conditioning work on or after January 1, 1986. These licenses could be issued by either the state or a municipality. The bill only provided for criminal penalties, limiting TDLR's enforcement authority.

In 1985, the Legislature expanded the exemption for maintenance personnel.

In 1987, the Legislature added licensure for persons engaging in commercial refrigeration and process cooling and heating work. The Legislature also established an Advisory Board appointed by the Governor with the consent of the Senate.

In 1989, the Sunset bill provided for temporary licenses, voluntary continuing education, and gave authority for reciprocal agreements with other states.

In 1993, the Legislature expanded the Department's enforcement authority, requiring a person to have a license before performing air conditioning and refrigeration contracting.

In 1997, the Legislature allowed the Department to administer computer-based examinations throughout the state. Additionally, the Legislature added regulation for the purchase of refrigerants and equipment containing refrigerants.

In 1999, the Legislature did the following:

- ? prohibited offering to perform air conditioning and refrigeration work without a license;
- ? authorized the Executive Director to issue emergency orders and cease and desist orders;
- ? authorized municipal officials to issue citations for unlicensed work and for illegal purchases of refrigerants;
- ? required all air conditioning and refrigeration contracting companies to employ a licensee whose license is assigned to their company; and
- ? reduced the offense of performing work without a license to a Class C misdemeanor.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves Texans who, at work or at home, enjoy the benefits of air conditioning and refrigeration. Additionally, the program serves a regulated population of 21,948.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include processing applications, administering exams, and issuing licenses. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

In addition to investigators located in Austin, TDLR has two field investigators whose primary responsibility is to investigate unlicensed activity. These investigators are currently located in Wichita Falls and San Antonio.

TDLR also relies on the expertise and advice of the Air Conditioning and Refrigeration Contractors Advisory Board for the administration of this program.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Department is a member of the Air Conditioning Enforcement Task Force, which includes municipal building officials and inspectors. The purpose of this group is to share information and strategies on how to identify unlawful activity and non-compliance with mechanical codes.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program. The change from three-year to one-year licenses effective September 1, 2001 will provide a more consistent revenue stream, simplifying revenue projections and fee adjustments.

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

There are no programs providing identical or similar services or functions. The cities of Fort Worth and San Antonio still issue a municipal air conditioning license, valid only within their respective city limits; however, most of the contractors in these cities have a state license for instances where they perform work outside of the city's jurisdiction.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

TDLR applies the Act so that contractors do not have to be licensed by the Department if they hold a license issued by the City of Fort Worth or San Antonio and work exclusively in that city.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

N/A

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 air conditioning regulation exists to protect the health, safety, and welfare of Texans, by ensuring air conditioning contractors are qualified and adequately insured.

? **the scope of, and procedures for, inspections or audits of regulated entities;**

When needed, TDLR contracts with licensed air conditioning professionals to perform inspections. These experts may also provide testimony relating to mechanical integrity and other technical matters.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction when the health and safety of the public is in jeopardy or to enforce a cease and desist order.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions may include a denial of application, letter of reprimand, probated suspension, or revocation of the license.

Other remedies available to TDLR are cease and desist orders, civil penalties, and injunctive relief.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Air Conditioning Contractors Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	753	1088
Number of complaints resolved	622	737
Number of complaints dropped/found to be without merit	141	174
Number of sanctions	44	68
Number of complaints pending from prior years	317	405
Average number of days for resolution of a complaint	146	179
Total number of entities regulated by the agency	20,539	21,444

Architectural Barriers

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR accepts plans and specifications for review and registers construction projects. Buildings and facilities with construction, renovation, or alteration costs of \$50,000 or more are required by statute to be registered with the Department. TDLR also registers state leases with an annual lease expense in excess of \$12,000.

Currently, TDLR contracts with private sector individuals, state agencies, and political subdivisions to perform review and inspection functions. As a result of Senate Bill 484 (77th Legislature) TDLR will register private sector individuals while continuing to contract with state agencies and political subdivisions.

As a part of this implementation TDLR will process applications, administer examinations, and issue certifications for registered accessibility specialists. TDLR will issue a one-year certification and two types of endorsements -- plan review, inspection, and a combination of the two.

? **Plan Reviews and Inspections**

The Department and third-party contractors review construction documents and conduct inspections for compliance with the Texas Architectural Barriers Act and the Texas Accessibility Standards (TAS). The Department has a variance process through which owners may request a waiver or modification of a standard when compliance is impractical. Through the plan review process, the Department and third-party contractors identify non-compliant issues prior to construction, allowing the architect and owner to take corrective measures and thereby avoid costly post-construction corrections. The inspection confirms compliance and identifies violations.

? **Enforcement**

The Department is the primary enforcement authority for ensuring that renovated, altered, or new buildings are built to be accessible to persons with disabilities. Common problems are lack of accessible routes to and within a facility, non-registration of construction projects, and failure of owners to request inspection. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Architectural Barriers Advisory Committee.

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 678g, Texas Civil Statutes (the Act), took effect January 1, 1970.

The program was created to ensure that persons with disabilities were not denied access into and within public facilities, thereby increasing and achieving maximum personal independence.

The current Act (Article 9102, Texas Civil Statutes) requires design professionals to submit construction documents for review (Section 5(k) of the Act). Building owners may not allow a building permit application to be filed or construction to begin without registering the project with the Department (Section 5(k) of the Act). Owners are also required to have facilities inspected for compliance with the Standards (Section 5(o) of the Act). Public officials may not accept an application for a building permit without verifying that the project has been registered (Section 5(k) of the Act). The Commission adopts Standards that are consistent with federal law and contracts with others to perform the Department's plan review and inspection functions (Sections 5(i) and (d) of the Act).

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

Prior to 1991, the Texas Architectural Barriers Act required the administering agency to conduct reviews of all plans and specifications relating to regulated facilities. Inspections of selected facilities were also conducted to ensure compliance.

In 1991, the Legislature did the following:

- ? transferred the program from the General Services Commission to TDLR;
- ? added provisions for fees and penalties;
- ? granted TDLR authority to contract with third-party entities to perform reviews and inspections of privately funded projects;
- ? expanded the scope of the Act to include facilities considered "public accommodations" as defined by the American with Disabilities Act; and
- ? required mandatory inspections of facilities and buildings.

In 1993, the Legislature expanded the scope of the Act to include privately funded buildings and facilities defined as "commercial facilities" by the Americans with Disabilities Act. The Legislature also limited submittal of construction documents for review and performance of inspections to facilities with an estimated construction cost of \$50,000 or more.

In 1995, the Legislature exempted from the Standards places used primarily for religious rituals within either a building or facility of a religious organization.

In 1996, the United States Department of Justice certified that the Standards and the Rules meet or exceed the new construction and alterations requirements of Title III of the Americans with Disabilities Act.

In 1997, the Legislature required the inspection of state leases prior to occupancy and increased parking requirements for certain state-occupied facilities.

In 1998, TDLR adopted Rules exempting:

- ? construction sites;
- ? raised security areas;
- ? limited access spaces;
- ? equipment spaces;
- ? single occupant structures; and
- ? restricted occupancy spaces.

In 1999, the Legislature did the following:

- ? added landscape architects to the list of design professionals required to submit plans;
- ? granted TDLR authority to contract with third-party entities to perform reviews and inspections of publicly funded projects; and
- ? required the owner to submit proof that construction documents have been submitted to TDLR when applying for a local building permit.

In 2000, TDLR adopted Rules exempting facilities leased by the federal government and places used primarily for religious rituals.

The need for accessible buildings will continue, but the processes for verifying accessibility may need to be reevaluated to ensure that state and local government resources are being utilized to the maximum efficiency.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program primarily serves persons with disabilities. The Governor's Committee on People with Disabilities estimates that four million Texans have disabilities. The program also serves every person who owns a building subject to the Act and approximately 55,000 design professionals.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all registration and related functions. These functions include processing applications and issuing registrations. The Code Review and Inspections division oversees the plan review and inspection functions, administers the Texas Accessibility Academy, and provides program expertise. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

In addition to investigators located in Austin, TDLR has ten field investigators whose primary responsibilities are to conduct architectural barrier inspections and investigate other program complaints. These investigators are currently located in San Antonio, Houston, Dallas, and Midland.

TDLR also relies on the expertise and advice of the Architectural Barriers Advisory Committee for the administration of this program.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Department has frequent contact with the United States Architectural and Transportation Barriers Compliance Board and the United States Department of Justice to obtain clarification of ADA requirements.

TDLR works closely with the following agencies to streamline the review and inspection processes and facilitate compliance with the Standards through Interagency Agreements and Memoranda of Understanding:

Texas Department of Criminal Justice - This agreement limits the application of the Standards to certain prisons and certain areas within prisons.

Texas Commission on Jail Standards - This agreement identifies which accessibility Standards are to be applied to county jails for purposes of compliance with the Act.

Texas Department of Transportation – The Department is negotiating an agreement on processes for plan reviews and inspections of pedestrian elements.

Texas Historical Commission – This Memorandum of Understanding facilitates the use of the minimum requirements for historical buildings and facilities and designates a single point of contact to aid design professionals and county officials who participate in the Texas Historic Courthouse Preservation Program.

The Department has also contracted with the City of El Paso to perform plan reviews to determine compliance with the Standards.

The Executive Director is an advisory member to the Governor's Committee on People with Disabilities.

As required by the Act, the Department reports to appropriate licensing authorities design professionals who fail to submit construction documents as prescribed by law.

The Department assists local government officials/permitting authorities with the statutory requirement relating to verifying project registration by providing easily accessible information. TDLR also works closely with the Texas Association of Counties and the Texas Municipal League to provide information about the requirements of the Act.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

There are no programs providing identical or similar services or functions. While most municipalities do not review plans and inspect buildings specifically for compliance with Texas Accessibility Standards, they do perform reviews and inspections for compliance with building codes, which may include similar accessibility Standards (e.g., American National Standards Institute A-117.1).

Additionally, the U.S. Architectural and Transportation Barriers Compliance Board (the Access Board) has developed Americans with Disabilities Act Accessibility Guidelines (ADAAG). These guidelines are the basis for the Texas Accessibility Standards (TAS). Both the ADAAG and TAS have the same goal of eliminating barriers to accessibility, yet no federal agency performs plan reviews or inspections. Enforcement at the federal level is limited to judicial action.

Third-party reviewers for the Department's Industrialized Housing and Building Program are required to address accessibility requirements as part of their plan reviews.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

TDLR encourages municipalities to contract with TDLR to perform plan review and inspection functions. This helps cities provide one-stop permitting activities. The Department provides training through the Texas Accessibility Academy to local building officials and their staff on the accessibility Standards.

TDLR staff participates on national committees that are currently working on the harmonization of building and accessibility codes, with the goal of developing a single code. This should result in uniform accessibility requirements. TDLR was successful in obtaining equivalency certification from the U.S. Department of Justice for the Texas Accessibility Standards.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

Currently TDLR is reorganizing the Architectural Barriers Program, shifting its focus from plan review and inspection to one of audit and oversight of third-party providers. Since TDLR's strengths arise from its being an occupational licensing agency, transferring the review and inspection functions to licensed third-party providers will improve efficiency and increase accessibility.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 Architectural Barriers regulation exists to ensure that buildings and facilities are constructed, renovated, altered or added-to in such a manner as to make them accessible to and usable by persons with disabilities as required by the Texas Architectural Barriers Act. Although accessibility design standards have existed since the early 1960s, some buildings and facilities continue to be constructed without the necessary required access for persons with disabilities. This regulation was put in place to address this issue at a state level, since it is not adequately addressed at the local level, particularly in unincorporated areas of the state.

? **the scope of, and procedures for, inspections or audits of regulated entities;**

Plan reviews are performed to ensure that regulated buildings are designed in accordance with applicable Standards. Design professionals are provided written notification of deficiencies and given an opportunity to address the issues identified during plan review.

Inspections are performed to ensure that regulated buildings are constructed in accordance with applicable Standards. Building owners are provided written notification and given an opportunity to correct any violation cited during an inspection. Violations that are not corrected within the allotted time frame are referred to enforcement for investigation.

Audits of Contract Providers involve periodic assessments of contract provider's work. Contract providers are notified of any unsatisfactory performance and given an opportunity to correct or improve performance prior to any action being taken against their contracts/registration/certifications.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions against registered third-party providers may include denial of application, a letter of reprimand, probated suspension, or revocation of the license.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Architectural Barriers Chart 14: Complaints Against Regulated Entities – Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	1120	1624
Number of complaints resolved	993	1370
Number of complaints dropped/found to be without merit	129	77
Number of sanctions	0	0
Number of complaints pending from prior years	142	145
Average number of days for resolution of a complaint	77	55
Number of entities inspected by the agency	5,045	4,414
Number of entities inspected by 3 rd party	4,489	4,262
Total number of entities regulated by the agency	10,947	13,192

Auctioneers

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications, administers examinations, and issues annual licenses. TDLR issues auctioneer and associate auctioneer licenses. The auctioneer license entitles a person to sell or offer to sell by bid call personal and real property. The auctioneer also employs and directly supervises associate auctioneers. An associate auctioneer license entitles persons to perform auctioneer services under the direct supervision of auctioneers. If a licensed auctioneer works for an auction company, the company must be owned or operated by an individual holding a license.

? **Enforcement**

The Department is the primary enforcement authority for complaints against auctioneers. The most common complaints involve unlicensed activity and breach of fiduciary duties. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Auctioneer Education Advisory Board.

? **Inspections**

TDLR conducts onsite inspections and investigations.

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 8700, Texas Civil Statutes (the Act), took effect September 1, 1975.

The program was created to protect consumers who receive the services of an auctioneer.

The Auctioneer Education and Recovery Fund (the Fund) is a trust fund administered by the Department to pay for claims against licensed auctioneers. See ? 1802.151, Texas Occupations Code. The fund covers each auctioneer to a maximum of \$20,000 and any aggrieved party to a maximum of \$10,000. Any funds in excess of \$250,000 may be allocated by the Executive Director with the advice of the Auctioneer Education Advisory Board to fund auctioneer education programs. Grants are awarded after consideration of proposals submitted by prospective education providers. The Rules require auctioneers to maintain a separate trust or escrow account to deposit all auction proceeds into the account within 72 hours of the auction and to keep all records within two years from the date of the sale (Sections 67.101 and 67.102, Title 16, Texas Administrative Code).

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1991, the Legislature amended the Act by establishing a Recovery Fund and eliminating the surety bond requirement.

Regulation of the auctioneer industry will always be needed to provide protection to Texans selling and purchasing property through auctions.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves Texans who sell and buy property at auctions. Additionally, it serves a regulated population of approximately 3,000.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include processing applications, administering examinations, and issuing licenses. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

In addition to an investigator located in Austin, TDLR has ten field investigators who provide limited investigative assistance for this program. These investigators are currently located in San Antonio, Houston, Dallas, and Midland.

TDLR also relies on the expertise and advice of the Auctioneer Education Advisory Board for the administration of this program.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TDLR has entered into licensing reciprocity agreements with 15 other states that regulate the activities of auctioneers. Due to a statutory exemption for certain stockyard auctions, TDLR has minimal contact with the Packers and Stockyards Administration of the United States Department of Agriculture. TDLR also works with local law enforcement authorities to prevent unlicensed persons from conducting auctions.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund. TDLR also receives appropriation from the Auctioneer Education and Recovery Fund for administering the program.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

There are no programs providing identical or similar services or functions.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program.

In recent years the Department has assisted the Office of the Comptroller of Public Accounts in the collection of sales tax revenues.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 auctioneer regulation exists to ensure that individuals conducting auctions are providing Texans with competent and honest services.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Inspections and audits are performed in connection with investigations of alleged violations.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions may include denial of application, a letter of reprimand, suspension, probated revocation, or revocation of the license.

An auctioneer whose actions result in a payment from the Recovery Fund must repay the fund and any amount owed to the aggrieved party. Additionally, the auctioneer's license is subject to revocation or probated revocation.

Additionally, the Act provides for Class B misdemeanors for persons engaging in unlicensed activity or filing frivolous complaints or claims; other violations of the Act are Class C misdemeanors.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

Recovery Fund Claim Filing Process:

After a consumer files a claim against the recovery fund, which includes a \$50 filing fee, TDLR sends a Claim Acknowledgement Letter to the consumer requesting additional information. After receipt of the consumer's additional information, TDLR sends a letter to the auctioneer requesting a response to the claim. An investigator subsequently reviews all information and makes a preliminary decision. TDLR informs both the claimant and the respondent of its preliminary decision and requests a response from both parties. If either party disputes the determination, the matter is set for an administrative hearing. If all parties agree to the determination, TDLR issues an agreed order and all parties are notified.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation		
Auctioneers		
Chart 14: Complaints Against Regulated Entities – Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	55	89
Number of complaints resolved	57	79
Number of complaints dropped/found to be without merit	19	14
Number of sanctions	2	1
Number of complaints pending from prior years	55	35
Average number of days for resolution of a complaint	216	217
Total number of entities regulated by the agency	3,014	3,007

Boiler

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications, administers examinations, commissions boiler inspectors, and issues certificates of operation. TDLR commissions deputy boiler inspectors and authorized inspectors. Deputy boiler inspectors are employed by TDLR to perform certificate inspections and special inspections. Authorized inspectors are employed by private sector authorized inspection agencies to perform certificate inspections. TDLR issues certificates of operation ranging from one to three years, for boilers throughout the state. Certificates of operation are issued to boilers found to be in safe condition for operation.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the boiler industry. The most common problems involve failure to obtain inspection and failure to pay inspection fees. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Board of Boiler Rules.

? **Inspections**

TDLR requires each boiler to be inspected internally and externally at the time of installation and at subsequent intervals. TDLR also inspects nuclear boilers.

TDLR performs reviews of boiler manufacture and repair facilities and owner/operators located in the state for accreditation by the American Society of Mechanical Engineers (ASME), the National Board of Boiler and Pressure Vessel Inspectors, or TDLR.

TDLR also inspects nuclear boilers.

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

This program was created in 1937 and is codified in Chapter 755 of the Texas Health and Safety Code (the Code).

The program was created to protect Texans through the safe operation and frequent inspection of boilers. The impetus for this regulation was the New London School explosion in 1937, which killed approximately 300 school children and teachers.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1958, the boiler regulations were changed to encompass low-pressure steam heating boilers installed in public and private schools, colleges, universities, or county courthouses.

In 1969, regulations were changed to include provisions for special inspections.

In 1972, regulations were changed to require that all boilers (except cast iron) must be registered with the National Board of Boiler and Pressure Vessel Inspectors.

In 1977, the Legislature adopted the sections of the ASME code relating to nuclear boilers, bringing them under the regulation of the Texas Boiler Law.

In 1989, the Texas Boiler Law, Texas Civil Statutes, Article 5221c, was recodified into the Health and Safety Code, Chapter 755.

Despite advances in technology, boilers are still being used to heat water and generate steam. Because these processes are inherently dangerous, regulation of the boiler industry will continue to be needed to ensure boilers are properly maintained and operated.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

Boilers are used in commercial facilities, such as dry cleaners, car washes, and power plants. Additionally, boilers are found in schools, hospitals, and office buildings. Because of the widespread use of boilers, this program serves all Texans by ensuring their safety. The regulated population includes approximately 60,000 boilers and 500 inspectors.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Code Review and Inspections division oversees the boiler inspection and certification processes and provides program expertise. These functions include issuing certificates of operation, administering the examinations, inspector commissions, and inspecting uninsured boilers. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

In addition to the chief boiler inspector and two deputy boiler inspectors located in Austin, TDLR has thirteen deputy boiler inspectors in the field whose primary responsibility is inspecting uninsured boilers. These inspectors are currently located in San Antonio, Houston, Dallas, Lubbock, and Midland.

TDLR also relies on the expertise and advice of the Board of Boiler Rules for the administration of this program.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TDLR works with the Texas Education Agency to educate school superintendents about boiler safety and certification requirements. TDLR enlists the assistance of city fire marshals to shut down unsafe boilers and city building inspectors to report newly installed boilers.

TDLR has interagency agreements with the State Fire Marshals Office and the Texas Department of Health for reporting unregistered or unsafe boilers.

TDLR also has minimal contact with the Nuclear Regulatory Commission, the Public Utilities Commission, the Texas Railroad Commission, the Board of Plumbing Examiners, the State Board of Insurance, and the Occupational Safety and Health Administration.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

Similar services are provided by private sector authorized inspection agencies that inspect insured boilers.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

TDLR's deputy inspectors inspect only uninsured boilers, thereby avoiding duplication.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

N/A

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 boiler regulation exists to ensure safe operation through registration and inspection of boilers.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

TDLR and third-party inspection agencies perform installation and periodic inspections, which are necessary for boilers to obtain and maintain a certificate of operation. Other inspections are performed if a boiler's safety is in question. Due to the potential risk of injury resulting from operation of an unsafe boiler, TDLR will inspect a boiler regardless of payment of inspection fee by the owner. Owners failing to pay the fee will not receive a certificate of operation and are subject to administrative penalties.

TDLR, as the agent for ASME and the National Board, also performs special inspections for the accreditation of plants, which fabricate boilers and other pressure retaining items and perform repairs and alterations to existing equipment. These inspections entail the review of the manufacturer's quality control manual and procedures and the verification of compliance with applicable codes and procedures of the National Board of Boiler and Pressure Vessel Inspectors and the ASME.

? **follow-up activities conducted when non-compliance is identified;**

After an inspection is conducted, the Department offers the owner the opportunity to correct any non-compliant issues. If these issues are not corrected, the Department opens an investigation and issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

If a boiler poses an imminent threat to public safety, TDLR may also seek assistance from the Office of the Attorney General, County Attorney, or District Attorney in obtaining a court-ordered injunction to cease boiler operation. The Department may also seek assistance from local fire officials to cease boiler operation.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions may include revocation of certificate of operation and the rescission of an inspector's commission.

Other remedies available to TDLR are civil penalties and injunctive relief.

Additionally, a violation of this Act, the Rules, or an order issued by the Executive Director is a class B misdemeanor.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation		
Boiler		
Chart 14: Complaints Against Regulated Entities – Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	48	40
Number of complaints resolved	64	36
Number of complaints dropped/found to be without merit	2	0
Number of sanctions	0	0
Number of complaints pending from prior years	29	14
Average number of days for resolution of a complaint	158	177
Number of entities inspected by the agency	10,398	10,799
Number of entities inspected by 3 rd party	14,770	14,458
Total number of entities regulated by the agency	60,073	59,593

Career Counselors

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications and issues annual certificates of authority. The certificate of authority issued by TDLR entitles persons to provide career counseling services designed to assist in the development and marketing of a client's career.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the career counseling industry. The most common complaints involve dissatisfied clients and misleading advertisements. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 5221a-8, Texas Civil Statutes (the Act), took effect September 1, 1987.

Large monetary losses by consumers prompted the Legislature to create regulation of the career counseling industry in this state.

Section 3 of the Act requires a person to obtain a certificate of authority for each career counseling service location in Texas. Additionally, the law requires each location to file financial statements with the Department, to file a bond in the amount of \$10,000, to adopt a program for consumer complaint resolution, to prove the truth of every claim made in its advertising, and to provide certain services to each customer. *See, e.g.*, §§ 4, 5, 6, 7, and 9 of the Act. The Department is required to enforce the Deceptive Trade Practices Act (the DTPA) which includes awarding damages under the DTPA (Article 5221a-8, Section 10, Texas Civil Statutes). This requires a complainant to file a sworn affidavit and the Department, when necessary, to conduct a hearing no later than 45 days after the complaint is filed (Article 5221a-8, Section 11(c), Texas Civil Statutes).

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1993 the Legislature exempted licensed psychologists who provide career counseling within the scope of their psychological services.

While the need for consumer protections for individuals using career counseling services continues, the Deceptive Trade Practices Act provides equivalent protection and greater monetary damages for the consumer. For example, under the Career Counseling Act a consumer receives only the amount of the actual damages, whereas under DTPA a consumer receives three times the amount of the actual damages.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves Texans who use career counseling services such as resume and interview technique development, and income potential and skills assessments. Additionally, the program serves a regulated population of approximately 20.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include processing applications, and issuing certificates of authority. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

This program does not work with federal, state, or local government entities.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current fees and administrative penalties provide approximately 60 percent of the funding required to administer the program. With a regulated population of approximately 20, it is not feasible to charge a reasonable fee to cover program costs.

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

The Deceptive Trade Practices Act provides similar protection to the consumer and is incorporated into the Career Counseling Services Act. Under both DTPA and the Career Counseling program, a career counselor who violates the law pays a penalty equal to three times the actual damages. Nevertheless, under DTPA the consumer receives the full treble damages amount whereas under the career counseling program, the consumer receives the amount of actual damages and TDLR receives the remaining two-thirds.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

Consumers have a right to remedies available under the Deceptive Trade Practices Act and the Career Counseling Services Act, therefore duplication is unavoidable.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

Many of the complaints received by the Department are based on the client's expectation that the career counselor is a "headhunter" and will find them a job. The Act prohibits the career counselor from offering or implying any guarantee that a client will obtain a job through the service.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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;**

Regulation of career counseling services is no longer needed. Adequate consumer protection is available under the Deceptive Trade Practices Act through the courts.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Inspections and audits are performed in connection with investigations of alleged violations.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. The Department may assess and collect monetary penalties equal to twice the amount of the fee charged by the service and/or up to \$5,000 for each violation per day. In these cases, TDLR also requires the career counselor to return the fee to the consumer. Disciplinary actions may include a warning, suspension, or revocation of the certificate of authority. If a certificate of authority is revoked, the career counselor is ineligible to reapply for three years.

Other remedies available to TDLR are civil penalties and injunctive relief.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. Complaints filed by consumers must be by sworn affidavit. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons.

The Department offers informal conferences to attempt resolution of the complaint. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the

respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. The Act provides that an administrative hearing, when necessary, be conducted within 45 days of filing the complaint.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Career Counselors Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	53	11
Number of complaints resolved	33	11
Number of complaints dropped/found to be without merit	0	0
Number of sanctions	0	0
Number of complaints pending from prior years	10	30
Average number of days for resolution of a complaint	106	408
Total number of entities regulated by the agency	27	19

Combative Sports (Boxing)

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications and issues annual licenses. Combative sports regulated by this program include boxing, kick boxing, shoot wrestling and elimination tournaments, e.g., Toughman ? contests. TDLR issues eight license types: promoters, contestants, managers, seconds (i.e., cornermen), matchmakers, referees, judges and timekeepers.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the combative sports industry. The most common complaints involve failure of contestants to undergo physicals, unlicensed promoters, and unapproved events. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also initiates restraining orders through the Office of the Attorney General to prevent unapproved fights from occurring.

The Department is responsible for investigating wrestling complaints (not including professional entertainment wrestling), although registration of wrestling promoters is the responsibility of the Office of the Secretary of State.

? **Inspections**

TDLR's inspection process ensures the safety of the contestants and the public. This process begins with the weigh-in of contestants and continues through the post-fight physical examination. The process includes inspection of the ring, other equipment, hand wraps and gloves. TDLR also ensures the availability of medical personnel and medical equipment.

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program took effect in 1933.

The program was created to ensure the safety of contestants and the general public. A gross receipts tax was imposed to ease the state's budget shortfall resulting from the Great Depression.

The current Combative Sports Act is codified in Chapter 2052, Texas Occupations Code (the Act). The Act establishes the licensing and registration requirements for: boxing promoter (Section 2052.101, the Act); wrestling promoter (Section 2052.105, the Act); professional boxer, manager of a professional boxer, referee, judge, second, timekeeper, or matchmaker (Section 2052.107, the Act). The Act also requires promoters to maintain a surety bond (Section 2052.109, the Act). The Rules prohibit a person under the age of 17 from being licensed as a professional boxer (61.21(c), 16 Texas Administrative Code). For each event TDLR receives a fee of \$500 (61.80(c), 16 TAC) and three-percent of the gross receipts (Section 2052.151, the Act). To conduct a closed-circuit telecast of an event, a person must be licensed as a boxing promoter and pay the event fees (Section 2052.153, the Act). Persons younger than 18 years or 36 years or older are prohibited from participating as a contestant in an elimination tournament (Section 2052.203, the Act). The Act requires that a ringside physician be available for each event (Section 2052.204, the Act).

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1989, the Legislature transferred registration of wrestling promoters to the Office of the Secretary of State.

The original bill regulated only boxing and wrestling. With the emergence of new sports such as kick boxing and elimination tournaments, the scope of the law and the Rules was broadened to ensure contestants' safety.

Given the nature of combative sports, protecting the safety of the participants will always be necessary.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves participants and attendees of combative sport events. The regulated population is approximately 1,350.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs licensing and related functions. These functions include processing applications and issuing licenses. The Code Review and Inspections division oversees the combative sports inspection functions, issues licenses, and provides program expertise. The Code Review and Inspections division also reviews and approves contestants for combative sports events. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

In addition to the boxing administrator located in Dallas, the program has an assistant boxing administrator located in Austin. TDLR also has ten field investigators who provide inspection assistance for this program. These investigators are currently located in San Antonio, Houston, Dallas, and Midland.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Minimal federal regulation of boxing exists through the Professional Boxing Safety Act which requires a boxer to have a federal identification card. The Act requires state boxing commissions to issue a federal identification card to each boxer licensed in the state (United States Code, Chapter 15, §6305(b)).

TDLR coordinates with the Office of the Secretary of State for regulation of wrestling promoters.

TDLR works with educational institutions, law enforcement organizations, and the Texas National Guard to facilitate compliance with Texas laws and rules.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

There are no programs providing identical or similar services or functions.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program.

In 2000, Texas ranked third among states in the number of boxing matches conducted.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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;**
Regulation is needed to ensure the safety of contestants and the general public.

? **the scope of, and procedures for, inspections or audits of regulated entities;**
The pre-event inspection process begins with agency staff ensuring that all required applications, including medical reports, are submitted timely and completed correctly, and continue with the "weigh-in", the day before the event. Activities on the day of the event include inspecting the dressing rooms, checking the combatants' hand wrapping, ensuring that contestants wear the correct gloves, inspecting the ring to ensure compliance with specifications, and verifying that all necessary medical equipment and personnel are onsite. The full scope of and procedures for inspections for combative sports is included in Chapter 61 of the Texas Administrative Code, Title 16.

? **follow-up activities conducted when non-compliance is identified;**
After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction to prevent violations of the law or rules.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions may include a denial of application, letter of reprimand, probated suspension, or revocation of the license.

Other remedies available to TDLR are civil penalties, injunctive relief, and the forfeiture of up to \$1,000 of the purse by a boxer or manager.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Combative Sports Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	20	6
Number of complaints resolved	19	5
Number of complaints dropped/found to be without merit	1	2
Number of sanctions	0	0
Number of complaints pending from prior years	3	4
Average number of days for resolution of a complaint	84	247
Number of entities inspected by the agency	81	82
Total number of entities regulated by the agency	1,237	1,341

Elevators, Escalators, and Related Equipment

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications, annually registers elevator inspectors, and issues certificates of compliance. Registered inspectors, certified as Qualified Elevator Inspectors (ASME-QEI-1), inspect elevators and related equipment. TDLR issues annual certificates of compliance for elevators, escalators, and related equipment that meet minimum safety standards.

? **Enforcement**

The Department is the primary enforcement authority for complaints involving elevators, escalators, and related equipment. The most common problem is operating an elevator or escalator without a certificate of compliance. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Elevator Advisory Board.

? **Inspections**

The statute requires that elevators, escalators, and related equipment be inspected each calendar year, with the interval between inspections not to exceed 18 months. Third-party inspectors perform these functions.

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

This program was created in 1993 and is codified in Chapter 754 of the Texas Health and Safety Code (the Act).

The program was created to ensure the safety of people in Texas who ride or work on elevators, escalators, and related equipment.

The Act requires each elevator that is open to the general public in Texas be inspected annually and to have a certificate of compliance. The Act imposes inspection, filing, and other duties on owners of real property on which an elevator, escalator, or related equipment is located. *See § 754.019* of the Texas Health and Safety Code. The Act requires that the certificate of compliance be displayed in the elevator mechanical room, escalator box, or a place designated by the Executive Director for related equipment. *See § 754.019* of the Texas Health and Safety Code. The Executive Director may grant waivers and delays of compliance as long as health and safety are not significantly threatened. *See §754.014* of the Texas Health and Safety Code. Elevators, escalators, and related equipment installed after 1994 must comply with the least restrictive installation requirements of either the ASME Code A17.1 or applicable municipal ordinances that were in effect on the date of installation. *See Section 754.014* of the Texas Health and Safety Code. All elevators, escalators, and related equipment must comply with the minimum safety Standards of the 1994 ASME Code A17.3. *See Section 754.014* of the Texas Health and Safety Code.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1995, the Legislature amended the Act to prohibit the Department from charging or collecting a fee for certificate of compliance for an institution of higher education. The Act was also amended to transfer the authority to grant waivers and delays from the certified inspectors to the Executive Director.

In 1995, the Legislature also added exemptions to the Act for private buildings for labor unions, trade associations, private clubs, or charitable organizations having two or fewer floors.

In 1995, the Legislature amended the Act by establishing a maximum fee a private sector inspector could charge for inspection services.

In 1995, the Legislature expanded the Department's enforcement powers to include denial, suspension, or revocation of an inspector registration. Additionally, building owners were provided more time to correct deficiencies.

In 1996, the Office of the Attorney General issued an opinion which in effect exempted, with limitations, elevators located in private homes and industrial facilities from the Act's requirements.

Due to the risk of injury resulting from mechanical failure, regulation is needed to protect riders and other persons who work or live around elevators, escalators, and related equipment.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves Texans who ride elevators, escalators or related equipment. Additionally, it serves a regulated population of approximately 30,000 elevators and other equipment and 100 elevator inspectors.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all registration and related functions. These functions include processing applications and issuing registrations. The Code Review and Inspections division oversees the inspection functions, investigates reported accidents, conducts an annual Qualified Elevator Inspector training session, and provides program expertise. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

TDLR also relies on the expertise and advice of the Elevator Advisory Board for the administration of this program.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Act exempts municipalities which have an elevator regulatory program at least as stringent as the state's program. Currently, only the City of Houston has such a program. Houston and TDLR have maintained an excellent working relationship. In the past Houston's City Mechanical Inspector served on the Elevator Advisory Board.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Unlike other programs' statutes, the elevator statute sets the majority of the program's fees. At the same time, there is a provision in TDLR's enabling statute that requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program, yet the inability to adjust fees could be an obstacle in meeting the Department's funding mandate.

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

The City of Houston has administered an elevator program since the late 1960's.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

The elevators, escalators and related equipment located within Houston's city limits are exempt from state regulation.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

QEI's obtain certification through organizations accredited by the American Society of Mechanical Engineers. This certification is necessary to register with TDLR as a certified inspector.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 elevator, escalator and related equipment regulation exists to protect persons riding elevators from physical injury by ensuring that equipment is installed and maintained according to minimum safety standards.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Building Owners hire QEIs to perform annual inspections of elevators, escalators and related equipment. QEIs must perform inspections according to technical requirements adopted by the Department.

Additionally, TDLR staff conducts inspections and audits in connection with investigations of alleged violations and accidents.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against persons continuing to operate unsafe elevators and against unregistered elevator inspectors.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions against inspectors may include a denial of application, letter of reprimand, suspension, or revocation of the registration.

Additionally, the Act provides for a Class C misdemeanor for failure to correct a violation within 60 days of receiving a notice of non-compliance.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Elevators, Escalators, and Related Equipment Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	142	418
Number of complaints resolved	130	288
Number of complaints dropped/found to be without merit	1	0
Number of sanctions	3	0
Number of complaints pending from prior years	40	53
Average number of days for resolution of a complaint	123	110
Number of entities inspected 3 rd party	21,641	24,876
Total number of entities regulated by the agency	21,138	29,593

Industrialized Housing and Buildings

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

The Department is responsible for registering and approving persons engaged in constructing, selling, leasing, transporting, installing, inspecting, and reviewing of designs, plans, and specifications (construction documents) of industrialized housing and buildings. The Department also issues decals, insignia, and installation permits for certification of modular buildings and components.

Manufacturers, industrialized builders, design review agencies, third-party inspectors, and third-party inspection agencies are registered under this program.

TDLR sells decals and insignia (labels) to manufacturers who have been registered and certified to build modules or modular components.

Installation permits are issued to persons wishing to perform a limited number of industrialized housing and building installations.

? **Enforcement**

The Department is the primary regulatory authority for the industrialized housing and buildings industry. The most common problems involve manufacturers' failure to build according to approved construction documents and to follow the compliance control manual. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Texas Industrialized Building Code Council.

The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Texas Industrialized Building Code Council.

? **Inspections**

The Department inspects manufacturers' compliance controls and products in order to certify the plants. Third-party inspection agencies conduct in-plant inspections of manufactured units subsequent to certification. The Department monitors third-party inspection agencies and design review agencies to ensure their compliance with applicable laws, rules, codes, and procedures.

TDLR performs decal, insignia, and record audits of manufacturers and industrialized builders to ensure they are in compliance with the requirements of the IHB program.

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 5221f-1, Industrialized Housing and Buildings Act, Texas Civil Statutes (the Act), took effect September 1, 1985.

The program was created to safeguard public health, safety and general welfare by establishing uniform building code requirements for all modular construction in the State of Texas.

The Act applies to housing, buildings, or modular components of closed construction designed to be placed on a permanent foundation at a permanent installation site. No person shall construct, sell or offer to sell, lease or offer to lease, or transport any industrialized housing, buildings, or modular components in violation of the Act (Section 8(a), Article 5221f-1, Texas Civil Statutes).

All housing, building, and modular components must be constructed to meet or exceed the applicable building codes (Section 2(a), Article 5221f-1, Texas Civil Statutes).

A city building official shall inspect the construction of the foundation system and the erection and installation of the modules or modular components at the building site. Inspections outside city limits shall be performed by approved third-party inspection agencies. See Section 4(b), the Act, Texas Civil Statutes.

The building and permit fees charged by a municipality for each applicable inspection of an industrialized housing or building installation within its limits may not be greater than the fee charged for the equivalent inspection of a building constructed on-site.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1986, the Texas Industrialized Building Code Council adopted a Rule requiring portable buildings that are not built under the IHB program to have a seal attached by the manufacturer stating that the structure is not designed for placement on a permanent foundation. The Department was authorized to grant interim registration of design review agencies and third-party inspection agencies without prior Council approval.

In 1988, the Council granted a permanent variance to the Texas Commission on Jail Standards in regards to sprinkler systems in jails. This variance applies only to jails built to the Minimum Jail Standards.

In 1999 registered engineers and licensed architects were granted authority to perform inspections of industrialized housing and buildings foundations, installations, and other related construction at the installation site.

In 2000, the Council adopted Rules requiring design review agencies to employ an accessibility reviewer.

As long as modular buildings and components are constructed there will be a need for this program. The program provides the public with safe buildings and manufacturers with a single Code.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

Because of the widespread use of modular structures for commercial and residential facilities, this program serves all Texans by ensuring that modular buildings and components are safe and code-compliant.

This program also serves manufacturers of modular buildings and components by standardizing the code requirements and eliminating conflicts with city code amendments. Additionally, the program serves a regulated population of approximately 360.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Enforcement division oversees industrialized housing and building inspections and provides registration and program expertise. Specifically, these functions include issuing registrations, decals, and insignia, performing inspections, and monitoring third-party agencies. The Enforcement division also investigates and resolves any complaints. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process. The Administration division provides mail and cash receipt support for the agency.

TDLR also relies on the expertise and advice of the Texas Industrialized Building Code Council for the administration of this program.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Department may enter into reciprocity agreements with other states for the inspection of industrialized housing and buildings to be performed by an inspector of the equivalent regulatory agency of the other state and to perform inspections in this state for use in another state. Currently, Colorado is the only state with whom TDLR has a reciprocity agreement.

The Department works closely with municipalities to ensure compliance with the Act. The Act assures that municipalities will regulate industrialized housing and buildings in the same manner as site-built construction.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

Municipalities perform some of the statutorily required functions such as inspections for compliance with codes. The Architectural Barriers Program administered by TDLR reviews construction documents and inspects industrialized buildings for compliance with accessibility requirements for persons with disabilities.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

TDLR works closely with the municipalities to resolve any conflicts with the respective inspections. TDLR provides training to employees of design review agencies to increase their knowledge and application of the accessibility Standards.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

The Industrialized Housing and Building program differs from the Manufactured Housing program, which was transferred to the Texas Department of Housing and Community Affairs in 1995. The primary difference between these programs is that modular structures are constructed to the same codes as site-built structures, whereas manufactured housing is constructed to the Federal Housing and Urban Development Standards.

Unique among TDLR's advisory councils, the Texas Industrialized Building Code Council is granted broad authority to administer the IHB program. Examples of this authority include the ability to adopt codes, approve third-party inspection agencies and design review agencies, and resolve compliance disputes with municipalities.

All decisions, actions, and interpretations of the Council are binding on the Department, third-party inspectors and reviewers, and local political subdivisions.

Standardization of code requirements has enabled manufacturers to increase the efficiencies of their mass production assembly process of industrialized housing and buildings.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 industrialized housing and buildings regulation exists to assure that the public is provided with safe buildings and that manufacturers are not burdened with non-standardized code requirements.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

The Department performs certification inspections to assure that manufacturing facilities are capable of producing units that comply with the mandatory building codes and to assure that the compliance control manual in the facilities are functioning in accordance with the approved procedures.

The Department performs monitoring inspections to monitor the performance of third-party inspection agencies and manufacturing facilities.

The Department performs decal and insignia audits to assure that manufacturers have accounted for all decals or insignia, that all units receiving labels have been inspected in the plant by the third-party agencies, and that units are released only to registered industrialized builders or installation permit holders.

The Department performs record audits of industrialized builders to verify compliance with record keeping and site inspection requirements.

The Department monitors design review agencies to evaluate their performance of review and approval of manufacturers' design packages.

? **follow-up activities conducted when non-compliance is identified;**

After an inspection or audit is conducted, the Department offers the registrant the opportunity to correct any non-compliant issues. If these issues are not corrected, the Department opens an investigation and issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions may include a denial of application, a letter of reprimand, probated suspension, suspension, or revocation of the license.

Other remedies available to TDLR are civil penalties, not to exceed \$1,000 for each violation, and injunctive relief.

Additionally, a person who knowingly and willfully violates the Act commits a class A misdemeanor.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Industrialized Housing and Buildings Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	45	20
Number of complaints resolved	39	23
Number of complaints dropped/found to be without merit	0	0
Number of sanctions	7	6
Number of complaints pending from prior years	4	10
Average number of days for resolution of a complaint	117	246
Number of entities inspected by the agency	15	28
Number of entities inspected by 3 rd party	4,742	7,464
Total number of entities regulated by the agency	242	274

Personnel Employment Services

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications and issues annual certificates of authority. The certificate of authority issued by TDLR entitles persons to provide personnel employment services designed to assist clients in obtaining long-term employment or employees.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the personnel employment services industry. The most common complaints involve charging advance fees and fee disputes in cases where a job was not long-term. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The original law was passed in 1949 as the Private Employment Agency Regulatory Act. The law creating the current program, Article 5221a-7, Texas Civil Statutes (the Act), took effect August 27, 1979.

The program was created to protect the consumers in this state who pay a direct fee for personnel employment services, by regulating these services in Texas.

Section 7 of the Act requires a person to obtain a certificate of authority in order to own or operate a personnel employment service in Texas. Additionally, the law requires each service to post a \$5,000 bond with the Department before it commences operations. *See* § 7 of the Act. The law prohibits a personnel employment service from collecting a direct fee unless the client has accepted an offer of employment obtained as a result of a referral made by the service, and prohibits many other types of conduct as well. *See* Section 3 of the Act. The Act does not apply to personnel employment services provided by governmental bodies, certain business owners, labor unions, and licensed professional counselors (Section 2, Article 5221a-7, Texas Civil Statutes). Additionally, management search consultants are exempt from certification and bond requirements but must comply with all other provisions of the Act (Section 2, Article 5221a-7, Texas Civil Statutes). The job order, resume, application, workpaper, or other records containing information relating to an applicant, employer, position, or the operation of the personnel service are considered trade secrets as defined by Section 31.05 of the Texas Penal Code.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1969, the Legislature created the Texas Private Employment Agency Regulatory Board within the Department of Labor and Standards to oversee regulation of private employment services.

In 1987, the Act was amended to provide the Department with enforcement, investigation, and hearing authority. The Act was also amended to prohibit personnel employment services companies from assessing advance fees.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves employers and employees who use personnel employment services such as executive searches, job placement, and personnel consulting. Additionally, the program serves a regulated population of approximately 370.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include application processing and issuing certificates of authority. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

This program does not work with federal, state, or local government entities.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

There are no programs providing identical or similar services or functions.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program.

The strength of the economy is the single greatest factor that impacts the demand for personnel employment services. For example, during the economic downturn of the 1980s, the number of consumer complaints increased significantly.

Today, businesses increasingly rely on the services provided by temporary placement companies. These companies are not regulated; therefore only limited protection is provided to the employees and employers who use their services.

The majority of companies in this business act as management search consultants and are exempt from the certification and bond requirements because the employer pays their fees.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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;**

This program exists to ensure that consumers of personnel employment services, both employees and employers, are protected from fraud and other misleading activities.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Inspections and audits are performed in connection with investigations of alleged violations.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. The Department may assess and collect monetary penalties equal to twice the amount of the fee charged by the service and/or up to \$5,000 for each violation per day. In these cases, TDLR also requires the personnel employment service provider to return the fee to the consumer. Disciplinary actions may include a denial of application, warning, suspension, or revocation of the certificate of authority. If a certificate of authority is revoked, the personnel employment service provider is ineligible to reapply for three years.

Other remedies available to TDLR are civil penalties and injunctive relief.

Additionally, a person who violates the Act commits a class A misdemeanor.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. Complaints filed by consumers must be by sworn affidavit. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons.

The Department offers informal conferences to attempt resolution of the complaint. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. The Act provides that an administrative hearing, when necessary, be conducted within 45 days of filing the complaint.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Personnel Employment Services Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	4	28
Number of complaints resolved	3	16
Number of complaints dropped/found to be without merit	0	2
Number of sanctions	0	0
Number of complaints pending from prior years	0	1
Average number of days for resolution of a complaint	82	23
Total number of entities regulated by the agency	460	411

Property Tax Consultants

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications, administers examinations, issues registrations, and approves continuing education courses and providers. TDLR issues three types of two-year property tax consultant registrations: senior property tax consultant, property tax consultant, and real property tax consultant. Senior property tax consultant registrations entitle persons to perform property tax consulting services and to supervise others performing similar services. Property tax consultant registrations entitle persons to perform property tax consultant services under the supervision of a senior property tax consultant. TDLR renews a declining number of real estate property tax consultant registrations for persons who filed an application before 1992 and held an active real estate license. This class of registration is not required to have supervision and may only provide property tax consultant services on real property.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the property tax consultant industry. The most common complaints involve unlicensed activity and failure to abide by the code of ethics. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Property Tax Consultants Advisory Council.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 8886, Texas Civil Statutes (the Act), took effect September 1, 1991.

The program was created in order to protect the consumers in this state who receive the services of property tax consultants, through the registration of these consultants.

Persons operating as property tax consultants in the State of Texas are required to hold a certificate of registration issued by the Department. *See* § 2 of the Act. The registrant is required to maintain client records for three years after the date the last action was taken, and these records are subject to examination by the Department. *See* 16 TAC § 66.71. The registrant is required to notify service recipients of the name, address, and telephone number of the Department. *Id.* § 66.70.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

The original bill exempted certain public employees, certain employees of property owners, designated lessees of a property owner, persons acting under a general power of attorney, licensed attorneys, and certified public accountants.

In 1995, the Legislature added exemptions for actively licensed or certified real estate salespersons, brokers, and appraisers.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves Texans who use property tax consulting services such as assistance in protesting or negotiating property tax valuations and the preparation of property tax renditions and reports. Additionally, the program serves a regulated population of approximately 1,100.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include the aforementioned application processing and issuance of registrations. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TDLR works closely with local appraisal districts to investigate complaints involving property tax consultants and issues arising under the Texas Tax Code.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

The Texas Real Estate Commission approves continuing education providers and courses on the subject of property tax consulting for real estate salespersons and brokers.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

TDLR accepts courses approved by the Texas Real Estate Commission as continuing education course credits for Property Tax Consultants.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

N/A

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 property tax consultant regulation exists to ensure that individuals performing property tax consultant services are providing Texans with competent counsel and advice so that fair and accurate property value assessments are made.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Inspections and audits are performed in connection with investigations of alleged violations.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions may include a denial of application, a letter of reprimand, probated suspension, suspension, or revocation of the license.

Other remedies available to TDLR are civil penalties and injunctive relief.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Property Tax Consultants Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	5	8
Number of complaints resolved	3	9
Number of complaints dropped/found to be without merit	3	6
Number of sanctions	0	0
Number of complaints pending from prior years	2	2
Average number of days for resolution of a complaint	112	149
Total number of entities regulated by the agency	1,104	1,087

Service Contract Providers

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications and issues annual registrations. The Service Contract Service Provider registration entitles a person to contract with consumers to repair, replace or maintain a product. The service contract may additionally provide incidental payment or indemnity under limited circumstances, including towing, rental and emergency road service.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the service contract provider industry. The most common complaint involves unlicensed activity. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Service Contract Providers Advisory Board.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 9034, Texas Civil Statutes (the Act), took effect September 1, 1999.

The program was created in order to protect the consumers in this state who purchase or hold a service contract. This law was passed to establish that service contracts are not insurance products and thus not regulated by the Texas Department of Insurance.

A person may not provide service contracts sold in this state without registration with the Department, which requires payment of a fee not to exceed \$2000. *See* § 5 of the Act. Each provider must comply with the Act's financial security requirements: a reimbursement insurance policy, a funded reserve account and financial security deposit, or a \$100 million net worth. *See* § 6 of the Act. Each provider must maintain accurate accounts, books and other records. *See* § 9 of the Act. Each service contract must state the purchase price, terms, restrictions, and other required disclosures. *See* § 10 of the Act. The Act provides the consumer the right of rescission for a period of 20 days. *See* § 11 of the Act. The Act does not apply to the following: maintenance agreements, service contracts sold to persons other than consumers, manufacturers' warranties, residential service contracts, and automobile service club agreements. *See* § 5 of the Act.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 2000, the Office of the Attorney General issued an opinion requiring companies offering both residential service contracts and service contracts to be licensed by both the Texas Real Estate Commission and the Department.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves the Texans who purchase or hold service contracts on items such as automobiles, cellular telephones, and appliances. The program also serves a regulated population of approximately 170.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include the aforementioned application processing and issuance of licenses. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

TDLR also relies on the expertise and advice of the Service Contract Providers Advisory Board for the administration of this program.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Department exchanges information with the Texas Department of Insurance (TDI) and the Texas Real Estate Commission. Specifically, TDLR relies on TDI to verify that an authorized insurer has issued a service contract provider's reimbursement insurance policy.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

Prior to the Act becoming effective, the TDI was the agency responsible for taking administrative action against service contract providers for violations of the Texas Insurance Code. After enactment TDI began forwarding complaints against service contract providers to TDLR.

The Texas Real Estate Commission enforces the Residential Service Company Act. The Residential Service Company Act is similar to the Service Contract Provider program. Attorney General Opinion, JC0322, issued in January of 2001 interpreted that a company offering both contracts must be regulated by both agencies.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

Currently the Texas Department of Insurance and the Texas Real Estate Commission refer service contract provider complaints to TDLR.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

TDLR is closely monitoring federal litigation on the issue of whether the Liability Risk Retention Act of 1996 (15 United States Code, §§ 3901-3906), preempts our Act's requirement that a state-authorized insurer be used to provide financial security for service contract providers.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 service contract provider regulation exists to ensure that persons providing service contracts have sufficient financial resources to perform their obligations under the terms of the contracts.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Inspections may be performed in connection with investigations of alleged violations. The Act also authorizes the Department to examine and copy the provider's records to determine compliance with the Act.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include administrative penalties and disciplinary actions. Administrative penalties may not exceed \$500 for each violation or \$10,000 in the aggregate for all violations of a similar nature.

The Executive Director may impose appropriate disciplinary actions including denial of application, written reprimand, suspension, probated suspension, or revocation of the certificate of registration.

Other remedies available to TDLR are civil penalties and injunctive relief. Civil penalties may not exceed \$2500 for each violation or \$50,000 in the aggregate for all violations of a similar nature.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the

case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Service Contract Providers Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	N/A	67
Number of complaints resolved	N/A	20
Number of complaints dropped/found to be without merit	N/A	16
Number of sanctions	N/A	0
Number of complaints pending from prior years	N/A	0
Average number of days for resolution of a complaint	N/A	67
Total number of entities regulated by the agency	N/A	137

Staff Leasing Services

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications and issues licenses. TDLR issues two types of licenses: a full license and a limited license. Both licenses entitle a person to assign or lease their permanent employees to another employer. The full license is a two year license requiring an extensive background check through the Federal Bureau of Investigations and the Texas Department of Public Safety. The limited license is an annual license offered at a reduced fee and does not require a background check. Eligibility for a limited license is restricted to out-of-state companies who assign 50 or fewer employees in Texas with client companies who are based outside of Texas.

? **Enforcement**

The Department is the primary enforcement authority for complaints against staff leasing services. The most common complaints involve unlicensed activity and failure to pay wages to leased employees. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 9104, Texas Civil Statutes (the Act), took effect September 1, 1993.

The program was created to protect employees and clients of staff leasing service companies by ensuring that the companies meet minimum financial requirements.

The Act prohibits a person from engaging in staff leasing services unless that person holds a license issued under this chapter. *See Section 91.011* of the Texas Labor Code. The Act establishes experience, background, and net worth requirements for license holders and persons who control a staff leasing service. *See Sections 91.012, 91.013, and 91.014* of the Texas Labor Code. License holders are required to execute a written contract with its client companies with specific provisions required by the Act. *See Sections 91.031 and 91.032* of the Texas Labor Code. The license holder is responsible for the client company's contractual duties to manage, maintain, collect, and make timely payments for wages, insurance premiums, benefits, and other employee withholding. *See Section 91.046* of the Texas Labor Code.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1997, the Legislature amended the Act to change the license term from one year to two years for a full license and provided for the issuance of an annual limited license.

In 1999, the Legislature amended the Act by removing the requirement for limited licensed companies to be licensed or registered in the state in which they were based.

In 1999, the Legislature also amended the Act requiring the Department, to establish a written enforcement plan that provides notice to the license holders of the specific ranges of penalties and the criteria by which the proposed penalties are determined.

As an increasing number of companies outsource staffing needs (e.g., payroll, human resources, and clerical), the need to regulate staff leasing services will continue.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves the employees and clients of staff leasing service companies. Additionally, it serves a regulated population of approximately 260.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include the aforementioned application processing and issuance of licenses. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The statute requires interagency cooperation with the Texas Workforce Commission, Texas Department of Insurance, the Texas Workers' Compensation Commission, and the Office of the Attorney General as necessary for implementation and enforcement of the law.

TDLR obtains criminal background checks from the Department of Public Safety and the Federal Bureau of Investigation.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

There are no programs providing identical or similar services or functions.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program.

N/A

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 staff leasing services regulation exists to ensure that persons providing staff leasing services have sufficient financial resources to perform their obligations.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Inspections and audits are performed in connection with investigations of alleged violations.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties may range from \$1,000 to \$50,000 for each violation. Disciplinary actions may include a denial of application, letter of reprimand, probated suspension, suspension, or revocation of the license.

Other remedies available to TDLR are civil penalties and injunctive relief.

Additionally, the Act provides for Class A misdemeanors for certain violations of the Act.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. Criteria for settlement offers and ranges for penalties are incorporated into the program rules. The Department considers the severity of the violation, whether the violation was willful or intentional, whether the license holder acted in

good faith to avoid or mitigate the situation, whether the license holder engaged in similar violations in the past, and the penalties previously assessed by the Department against other license holders.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Staff Leasing Services Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	50	40
Number of complaints resolved	43	27
Number of complaints dropped/found to be without merit	31	10
Number of sanctions	2	1
Number of complaints pending from prior years	26	12
Average number of days for resolution of a complaint	114	148
Total number of entities regulated by the agency	251	232

Talent Agencies

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications and issues registrations. TDLR issues an annual certificate of registration to talent agencies that manage models and actors.

? **Enforcement**

The Department is the primary enforcement authority for complaints against talent agents. The most common complaints involve unlicensed activity and failure to pay clients. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 5221a-9, Texas Civil Statutes, took effect September 1, 1989.

The program was created to protect aspiring models and actors from exploitation by modeling and talent agents.

Persons operating as talent agents in the State of Texas are required to hold a certificate of registration issued by the Department. *See 2105.051* of the Texas Occupations Code. The registrant is required to maintain a surety bond in the amount of \$10,000. *See 2105.052* of the Texas Occupations Code. The Act requires written contracts between a talent agency and an artist with a four day right of rescission. Certificate holders receiving funds on behalf of an artist are required to deposit those funds in a FDIC-insured financial institution. *See 2105.105* of the Texas Occupations Code. The Act prohibits a talent agency from charging an advanced fee. *See 2105.201* of the Texas Occupations Code. A talent agency may not require an artist to use a certain product or service. *See 2105.202* of the Texas Occupations Code. The registrant is required to notify service recipients of the name, address, and telephone number of the Department. *See 2105.103* of the Texas Occupations Code.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 2001, the Legislature amended the definition of artist to include only models and actors.

As the entertainment industry in Texas continues to expand, more and more Texans will need the services of talent agencies and the protections the regulation provides.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves Texans who work as or desire to work as models or actors. Additionally, the program serves the regulated population of approximately 75.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include the aforementioned application processing and issuance of registrations. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TDLR works with the Governor's Office through the Texas Film Commission and the Texas Music Office to educate the entertainment industry on the requirements of the program.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

There are no programs providing identical or similar services or functions.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program.

N/A

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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;**

This regulation is needed to prevent unscrupulous talent agents from taking advantage of their clients.

? **the scope of, and procedures for, inspections or audits of regulated entities;**

Inspections and audits are performed in connection with investigations of alleged violations.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions may include a denial of application, suspension, or revocation of a certificate of registration. Upon revocation of a certificate of registration a person may not apply for a new certificate of registration before the first anniversary of the date of the revocation.

Another remedy available to TDLR is injunctive relief.

Additionally, a person who knowingly violates the Act or Rules commits a Class A misdemeanor.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Talent Agencies Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	31	47
Number of complaints resolved	38	27
Number of complaints dropped/found to be without merit	2	6
Number of sanctions	1	0
Number of complaints pending from prior years	16	7
Average number of days for resolution of a complaint	135	131
Total number of entities regulated by the agency	74	77

Temporary Common Worker Employers

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications and issues licenses. This annual license entitles persons to operate labor halls and provide common laborers to employers.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the employers of temporary common workers. The most common complaint is unlicensed activity. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Article 5221a-10, Texas Civil Statutes (the Act), took effect September 1, 1991.

The program was created to protect common laborers and provide uniform guidelines for the operation of labor halls.

A person may not operate as a temporary common worker employer unless licensed by the Department. *See* §92.011 of the Texas Labor Code. Employers of temporary common workers are required to maintain records for two years and make such records available to the Department. *See* §92.022 of the Texas Labor Code. Certain information provided to the Department by employers of temporary common workers is confidential. *See* §92.022 of the Texas Labor Code. A licensee that operates a labor hall must provide adequate facilities for their workers. *See* §92.024 of the Texas Labor Code. A licensee may not charge a common worker for safety equipment, clothing, cashing of a check or voucher, or the receipt of earned wages. *See* §92.025 of the Texas Labor Code. A licensee must post conspicuous notice of any charges it will assess for equipment, tools, transportation, or other work-related services. *See* §92.023 of the Texas Labor Code.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1993, the Office of the Attorney General determined that temporary common worker employers must provide workers compensation and unemployment insurance as required by other laws.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves common laborers and the businesses they are assigned to. Additionally, it serves a regulated population of approximately 120.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include the aforementioned application processing and issuance of licenses. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

N/A

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

There are no programs providing identical or similar services or functions.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program.

Section 92.013 of the Act prohibits municipalities from requiring a license to operate as a temporary common worker employer. However, municipalities with a population of over 750,000 may establish licensing requirements if they are stricter than the Standards in the Act.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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;**

This regulation exists to protect the health, safety, and welfare of common laborers.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Inspections and audits are performed in connection with investigations of alleged violations.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions may include a denial of application, letter of reprimand, suspension, probated suspension, or revocation of the license.

Other remedies available to TDLR are civil penalties and injunctive relief.

Additionally, a person who knowingly violates the Act commits a Class A misdemeanor.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Temporary Common Workers Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	36	8
Number of complaints resolved	15	28
Number of complaints dropped/found to be without merit	0	0
Number of sanctions	0	4
Number of complaints pending from prior years	1	7
Average number of days for resolution of a complaint	53	94
Total number of entities regulated by the agency	81	116

Transportation Service Providers

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications and issues certificates of registration. Transportation Service Providers certificates of registration are valid for two years. Registration entitles a person acting as a transportation service provider or a freight forwarder to provide transportation of property for compensation solely within this state. TDLR renews a declining number of transportation service providers.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the transportation service provider industry. Since the inception of the program, TDLR has never received a complaint from a consumer. The Department is authorized to investigate and resolve complaints, perform audits, conduct hearings, and impose administrative penalties and sanctions if a violation has occurred.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating this program, Texas Civil Statutes, Article 6675(e) (the Act), took effect September 1, 1997.

The purpose for which the program was created, as stated in § 1 of the Act, was "to protect the health, safety, and welfare of the people of this state through the registration of transportation service providers and freight forwarders that operate in this state." The legislative record indicates that the objectives were three-fold: (1) to prevent foreign nationals from frequently changing names and addresses while conducting freight forwarding operations in Texas; (2) to require the Department to register these freight forwarders so that owner information could be provided to the United States Drug Enforcement Agency and Internal Revenue Service; and (3) to prevent convicted drug smugglers and offenders from operating freight-forwarding businesses in Texas.

A person operating as a transportation service provider or freight forwarder in the State of Texas is required to hold a certificate of registration issued by the Department. *See* § 3 of the Act.

A transportation service provider or freight forwarder is a person other than a motor carrier that holds itself out to the general public to provide transportation in this state only of property for compensation and in the ordinary course of its business does all of the following:

- ? assembles and consolidates, or provides for assembling and consolidating, a shipment;
- ? performs or provides for break-bulk and distribution operations of a shipment;
- ? assumes responsibility for the land transportation of property at any point from origin to destination; and
- ? uses a motor or rail carrier for any part of a transportation.

The registrant is required to maintain business records for four years after the date the property is transported, and these records are subject to audit by the Department. *See* §§ 10 and 11 of the Act. The registrant is required to post his certificate of registration in his place of business, in a location visible to the public. *See* § 16 of the Act.

The Act does not apply to customs brokers, alcoholic beverage wholesalers, and ocean freight forwarders (Section 3, the Act).

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

There have been no changes in the original intent of this law.

The original intent of the legislation was to aid federal drug enforcement agencies. Based on the fact that TDLR has received no complaints and only one inquiry from a federal agency, it appears this Act has provided little, if any, assistance in winning the war on drugs. The allocation of state resources to this program may no longer be appropriate.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves Texans who use the services of transportation service providers and freight forwarders. Additionally, the program serves a regulated population of approximately 85.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs all licensing and related functions. These functions include the aforementioned application processing and issuance of certificates of registration. The Administration division provides mail and cash receipt support for the agency. The Enforcement division investigates and resolves any complaints and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The program does not work directly with federal, state, or local government entities, however the statute requires TDLR to cooperate with federal or state agencies in carrying out this Act. TDLR, with the assistance of the Department of Public Safety, may investigate a violation of the Act or Rules.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

The Federal Highway Administration administers a similar program, registering freight forwarders engaged in interstate commerce.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

TDLR's authority is limited to transportation service providers and freight forwarders engaged in intrastate commerce.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

N/A

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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;**

This regulation is no longer needed because the vast majority of companies performing this service are exempt and the original objectives cannot be achieved.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Inspections and audits may be performed in connection with investigations of alleged violations.

? **follow-up activities conducted when non-compliance is identified;**

After an investigation identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$5,000 for each violation per day may be assessed. Disciplinary actions may include denial, suspension, or revocation of the certificate of registration.

Other remedies available to TDLR are civil penalties, ranging from \$100 to \$500 per violation, and injunctive relief.

Additionally, a violation of this Act is a class A misdemeanor.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity

to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. If no violation is found, the Department closes the case and notifies the affected persons. The Department updates the complainant and respondent of the complaint's status quarterly.

The Department offers informal conferences to attempt resolution of the complaint. If an agreement is not reached through the informal conference, the matter moves to the administrative hearing process. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Transportation Service Providers Chart 14: Complaints Against Regulated Entities – Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	0	0
Number of complaints resolved	0	0
Number of complaints dropped/found to be without merit	0	0
Number of sanctions	0	0
Number of complaints pending from prior years	0	0
Average number of days for resolution of a complaint	0	0
Total number of entities regulated by the agency	122	83

Water Well Drillers

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications, administers examinations, issues annual licenses, and approves continuing education courses and providers. There are four types of water well driller licenses: water, monitor, injection and dewatering. For each of these license types, TDLR also registers apprentices who must work under the supervision of a licensed driller. The Department also issues a combination water well driller and pump installer license. A driller license entitles a person to drill, bore, core, or construct a well.

? **Enforcement**

The Department is the primary enforcement authority for complaints against the well industry. The most common complaints involve improperly constructed wells and poor water quality. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Water Well Drillers Advisory Council.

? **Inspections**

The Department periodically inspects wells as reported through the Texas State Well Reports filed by drillers.

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating the water well driller program, Chapter 32, Texas Water Code (the Act), took effect in 1961. The original oversight agency was the State Board of Water Engineers.

The program was created to protect the health and safety of Texans by preventing groundwater pollution.

A person may not perform services as a well driller unless they have a well driller license. *See §32.002* of the Texas Water Code. To obtain a well driller license an applicant must meet knowledge, experience, and examination requirements. *See §32.007* of the Texas Water Code. The Department requires continuing education for licensees. *See §32.008* of the Texas Water Code. A well driller must comply with the Department's Rules on the proper location, completion, sealing, capping, and plugging of wells. *See Chapter 76, Title 16, Texas Administrative Code.*

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1961, the State Board of Water Engineers, which was renamed as the Texas Water Commission (TWC), was granted authority to regulate water well drilling contractors.

In 1965, the Legislature repealed the existing law and replaced it with the Water Well Drillers Act. This Act shifted the regulatory focus from water well contractors to individual water well drillers. It also created the Texas Water Well Drillers Board.

In 1985, the Legislature authorized the Water Well Driller Board to assess and collect civil penalties for noncompliance with the Act and the Rules. Also, licensing requirements were added for the drillers of certain injection wells.

In 1987, the Legislature amended the Act to require licensure for monitoring and dewatering well drillers and required landowners to plug or complete abandoned or deteriorated water wells within 180 days of notification.

In 1991, the Legislature created the Texas Natural Resource Conservation Commission and transferred regulation of water well drillers to it.

In 1999, the Legislature amended the Act by exempting persons who perform well drilling activities relating to dewatering wells for the purpose of constructing a highway or underground utility project.

Regulation of well drillers will always be needed to protect groundwater quality.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves all Texans through the protection of groundwater quality. In 1994, groundwater provided 57% of the State's water needs including drinking water, agricultural/irrigation, industrial use, and livestock production. Additionally, it serves a regulated population of approximately 1,500.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs licensing and related functions. These functions include the aforementioned application processing, administering examinations, and issuance of licenses. The Administration division provides mail and cash receipt support for the agency. The Enforcement division inspects wells, investigates and resolves any complaints, and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

TDLR also relies on the expertise and advice of the Water Well Advisory Council for the administration of this program.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

A representative of the Water Well Drillers Program of the Texas Department of Licensing and Regulation serves as a member of the Texas Groundwater Protection Committee.

TDLR works closely with TNRCC in the development and review of rules and regulations to protect groundwater quality. The Program works in conjunction with TNRCC groundwater protection efforts through consultation and applicable rule enforcement related to public water supply wells, monitor wells, wellhead protection, on-site sewage facilities, sources of potential groundwater contamination, and groundwater contamination cases concerning TDLR regulated wells and pump installations.

The Department and the Texas Water Development Board created and implemented the Texas Well Report Submission and Retrieval System, an online database of electronically submitted well reports, plugging reports, and undesirable water reports.

TDLR shares resources and expertise with local groundwater conservation districts for the protection of groundwater quality.

The Department works closely with the Texas Railroad Commission to prevent and correct contamination of groundwater due to oil and gas production. TDLR has also consulted with the RRC regarding their experience and expertise in administering the Plugging Fund for abandoned and deteriorated oil and gas wells.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

Some groundwater districts have Standards for well construction, spacing, and location.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

The statute requires that local groundwater Standards be at least as stringent as state Standards.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

The Texas Water Well Drillers Advisory Council is granted authority to review and recommend applicants and to hear consumer complaints and make recommendations regarding their disposition. The Council also has the authority to propose rules for the regulation of the program.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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 water well driller regulation ensures that drillers are qualified to properly locate, complete, seal, cap, and plug wells.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

Each year, the Department inspects the wells of ten percent of the well drillers to ensure compliance with the following:

- ? surface completion;
- ? annular cement;
- ? distance from property lines;
- ? distances from potential sources of contamination; and
- ? location and condition of surface and annular cement of abandoned water wells.

? **follow-up activities conducted when non-compliance is identified;**

After an inspection identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$2,500 for each violation may be assessed. Disciplinary actions may include a denial of application, letter of reprimand, probation, or revocation of the license.

Other remedies available to TDLR are civil penalties, not less than \$200 nor more than \$1,000 per day or per violation, and injunctive relief.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. Consumer complaints that cannot be resolved at this stage by program staff are referred to the Water Well Driller Advisory Council for arbitration. If no violation is found, the Department closes the case and notifies the affected persons. If a violation is found and is not resolved through Council arbitration, the matter moves to the administrative hearing process with a recommendation from the Council. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

The Department updates the complainant and respondent of the complaint's status quarterly.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Water Well Drillers and Pump Installers Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	157	289
Number of complaints resolved	115	201
Number of complaints dropped/found to be without merit	19	34
Number of sanctions	0	1
Number of complaints pending from prior years	81	116
Average number of days for resolution of a complaint	155	167
Total number of entities regulated by the agency	1,955	1,823

Water Well Pump Installers

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

? **Licensing**

TDLR processes applications, administers examinations, and issues annual licenses, and approves continuing education courses and providers. The Department issues one water well pump installer license, for which five designations exist: master, windmill, fractional to five horsepower, five horsepower and over, and turbine. TDLR also registers apprentices who must work under the supervision of a licensed pump installer. The Department also issues a combination water well driller and pump installer license. A pump installer license entitles a person to install and service water well pumps and to repair and plug wells.

? **Enforcement**

The Department is the primary enforcement authority for complaints against well industry. The most common complaints involve improperly constructed wells and poor water quality. The Department investigates and resolves complaints, conducts hearings, and may impose administrative penalties and sanctions if a violation has occurred. The Department also coordinates the activities of the Water Well Drillers Advisory Council.

? **Inspections**

N/A

? **Communication**

TDLR offers its constituents a variety of methods to access information and services including a web site, fax on demand system, program brochures, Commission and Advisory Board meetings, external focus groups, press releases, a toll-free number, and an email list server subscription.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The law creating the water well pump installer program, Chapter 33 of the Texas Water Code, took effect September 1, 1992.

The program was created to protect the health and safety of Texans by preventing groundwater pollution.

A person may not perform services as a water well pump installer unless they have a pump installer license. *See* §33.002 of the Texas Water Code. To obtain a pump installer license an applicant must meet knowledge, experience, and examination requirements. *See* §33.005 of the Texas Water Code. The Department requires continuing education for licensees. *See* §33.006 of the Texas Water Code. A pump installer must comply with the Department's Rules on installation, operation, and repair of water well pumps and equipment. *See* Chapter 76, Title 16, Texas Administrative Code.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

In 1991, the Legislature implemented regulation of the water well pump installer program under the Texas Natural Resource Conservation Commission.

In 1999, the Legislature amended the Act by exempting persons who perform pump installer activities relating to dewatering wells for the purpose of constructing a highway or underground utility project.

Regulation of well pump installers will always be needed to protect groundwater quality.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This program serves all Texans through the protection of groundwater quality. In 1994, groundwater provided 57% of the State's water needs including drinking water, agricultural/irrigation, industrial use, and livestock production. Additionally, it serves a regulated population of approximately 1,700.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Licensing and e-Commerce division performs licensing and related functions. These functions include the aforementioned application processing, administering examinations, and issuance of licenses. The Administration division provides mail and cash receipt support for the agency. The Enforcement division inspects wells, investigates and resolves any complaints, and provides program expertise. Any alleged violations that are not resolved by the Enforcement division are referred to prosecutors within the Legal Services division to be resolved through the administrative hearing process.

TDLR also relies on the expertise and advice of the Water Well Advisory Council for the administration of this program.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

A representative of the Water Well Pump Installers Program of the Texas Department of Licensing and Regulation serves as a member of the Texas Groundwater Protection Committee.

TDLR works closely with TNRCC in the development and review of rules and regulations to protect groundwater quality. The Program works in conjunction with TNRCC groundwater protection efforts through consultation and applicable rule enforcement related to public water supply wells, monitor wells, wellhead protection, on-site sewage facilities, sources of potential groundwater contamination, and groundwater contamination cases concerning TDLR regulated wells and pump installations.

The Department and the Texas Water Development Board created and implemented the Texas Well Report Submission and Retrieval System, an online database of electronically submitted well reports, plugging reports, and undesirable water reports.

TDLR shares resources and expertise with local groundwater conservation districts for the protection of groundwater quality.

The Department works closely with the Texas Railroad Commission to prevent and correct contamination of groundwater due to oil and gas production. TDLR has also consulted with the RRC regarding their experience and expertise in administering the Plugging Fund for abandoned and deteriorated oil and gas wells.

H. Identify all funding sources and amounts for the program, 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).

Fees and administrative penalties provide the total funding for this program. There are no federal grants or pass-through monies. All revenue is deposited to and expenditures paid from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

TDLR's enabling statute requires the Commission to set fees in amounts reasonable and necessary to cover the costs of administering the program. Current resources provide adequate funding for the program.

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

There are no programs providing identical or similar services or functions.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program.

The Texas Water Well Drillers Advisory Council is granted authority to review and recommend applicants and to hear consumer complaints and make recommendations regarding their disposition. The Council also has the authority to propose rules for the regulation of the program.

M. Regulatory program relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please 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;**

This program regulation ensures that water well pump installers are qualified to install and service water well pumps and to repair and plug wells.

? **the scope of, and procedures for, inspections or audits of regulation entities;**

N/A

? **follow-up activities conducted when non-compliance is identified;**

After an inspection identifies non-compliance, the Department issues a Notice of Alleged Violation to the person against whom the complaint was filed (the respondent). The Notice of Alleged Violation may be resolved through a settlement agreement or the hearing process. In either case, TDLR may impose administrative penalties, sanctions, or both.

TDLR may also seek assistance from the Office of the Attorney General in obtaining a court-ordered injunction against unlicensed persons continuing to work illegally.

? **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include monetary penalties and disciplinary actions. Monetary penalties up to \$2,500 for each violation may be assessed. Disciplinary actions may include a denial of application, letter of reprimand, probation, or revocation of the license.

Other remedies available to TDLR are civil penalties, not less than \$200 nor more than \$1,000 per day or per violation, and injunctive relief.

? **procedures for handling consumer/public complaints against regulated entities.**

The Department opens a complaint and assigns it to an investigator. The investigator contacts the respondent to obtain a response to the allegations and witnesses to obtain evidence. The complainant is given the opportunity to rebut any statements made by the respondent. If the Department determines that a violation has occurred, it will issue a Notice of Alleged Violation to the respondent. Consumer complaints that cannot be resolved at this stage by program staff are referred to the Water Well Driller Advisory Council for arbitration. If no violation is found, the Department closes the case and notifies the affected persons. If a violation is found and is not resolved through Council arbitration, the matter moves to the administrative hearing process with a recommendation from the Council. TDLR's guidelines for settlement offers and assessment of penalties and sanctions are based on the seriousness of the violation, the respondent's history of previous violations, the amount necessary to deter a future violation, efforts made by the respondent to correct the violation, and any other matter that justice may require.

The Department updates the complainant and respondent of the complaint's status quarterly.

N. Please fill in the following chart for each regulatory program. The chart heading may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation Water Well Drillers and Pump Installers Chart 14: Complaints Against Regulated Entities -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
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Number of sanctions	0	1
Number of complaints pending from prior years	81	116
Average number of days for resolution of a complaint	155	167
Total number of entities regulated by the agency	1,955	1,823

VII. Agency Performance Evaluation

A. What are the agency's most significant accomplishments?

Projected Budget Shortfall Resolved

TDLR identified a budget shortfall of \$1.4 million in October of 1999. Through process review, fee adjustments, and reducing and postponing expenditures, TDLR resolved the projected shortfall in FY2000 without having to seek emergency appropriations.

Strategic Planning

TDLR has implemented a comprehensive strategic planning process. As part of this process, TDLR hosted five strategic planning focus groups during February and March 2000. In attendance were 180 persons, including advisory board members, consumer advocacy groups, accessibility contract providers, industry associations, licensees, representatives of state agencies, legislative staff, Legislative Budget Board and Governor's Budget Office analysts, TDLR Commissioners and employees. The focus groups provided a unique opportunity for the Agency and interested parties to exchange ideas and suggest changes and improvements. The following accomplishments are the result of initiatives developed by the Department and recommendations made by the focus groups:

1. Staffing and Personnel Initiative - to retain more staff and thereby reduce training costs.

Accomplishment - The employee turnover rate for FY2000 was 30.40%. As a result of personnel initiatives, including offering competitive salaries, the turnover rate has been reduced to approximately 12% in FY2001.

2. Technology Initiatives - to modernize our computer and records management systems.

Accomplishment - TDLR successfully obtained appropriations for the purchase of new licensing software and document imaging systems. The Department has begun imaging documents into electronic form and will begin implementation of the new licensing system in September 2001.

3. Licensing/Enforcement Initiatives- to better utilize agency resources and improve efficiency of the Architectural Barriers program.

Accomplishment - TDLR worked with legislative staff and other interested parties to develop and enact SB 484, creating a program for the registration of persons performing architectural barrier plan review and inspection functions. Consequently, TDLR's contractual authority with providers has been replaced with regulatory authority.

4. Communications Initiatives- to provide the public improved access to agency processes, databases, laws, rules and forms through the agency's web site.

Accomplishments - TDLR has implemented:

- ? online Air Conditioning Contractor license renewal using credit card payment through Texas Online;
- ? online AB project registration;
- ? online submittal of air conditioning contractor insurance certificates;
- ? email notification of pending legislation, rules published for comment and other information;
- ? searchable databases for license registration and enforcement actions; and
- ? a faxback system to provide information to constituents via fax machine.

5. Complaint Resolution Initiative - to increase administrative staff to expedite the complaint resolution process and to identify and register more elevators.

Accomplishment- 3,072 complaints have been resolved through June 2001. This is a 47% increase over the total number of complaints in FY2000 and 53% greater than the number projected for FY2001. During

FY2001, 1,400 buildings with unregistered elevators were identified and brought into compliance with the elevator safety standards.

- 6. Focus Group Recommendation** - to focus enforcement resources on identifying and penalizing persons who operate without a license or fail to comply with the regulatory requirements.

Accomplishment - In FY2001, through cyber enforcement (comparison of databases to uncover unlicensed activity), TDLR identified and implemented enforcement actions on 124 uninspected Architectural Barrier projects; 128 unlicensed air conditioning contractors; and 196 buildings with uninspected elevators.

- 7. Focus Group Recommendation-** to require proof of submittal of building plans prior to receiving a Certificate of Occupancy from a municipality.

Accomplishment - SB 484 amended the Architectural Barriers Act to prohibit municipalities from issuing a building permit without first verifying that a project has been registered with TDLR.

- 8. Focus Group Recommendation-** to increase the maximum administrative penalty from \$1,000 to \$5,000.

Accomplishment - HB 1214 increased the maximum administrative penalty to \$5,000 per violation per day.

- 9. Focus Group Recommendation** - to improve the collection process.

Accomplishment- The Office of the Attorney General has approved TDLR's contract for third-party collection of delinquent fees and penalties.

B. Describe the internal process used to evaluate agency performance, including how often performance is formally evaluated and how the resulting information is used by the policymaking body, management, the public, and customers.

The agency performance is evaluated through weekly senior staff meetings, monthly performance measure reports, annual Survey of Organizational Excellence, and periodic agency town hall meetings.

The weekly senior staff meeting, attended by the executive staff, division directors, and other essential staff, includes discussion of the latest revenue report, turnover rate, and staffing needs. Afterwards, a summary of the meeting is distributed to TDLR employees and Commission members for their input.

Though the Legislative Budget Board requires performance measures to be reported quarterly, TDLR collects monthly performance information to measure trends and allocate resources. If a performance measure goal is not achieved, TDLR determines what resources are necessary to correct deficiencies. Monthly reports also show positive trends, highlighting the success of interventions.

The annual Survey of Organizational Excellence, performed by the School of Social Work at The University of Texas-Austin, is a superb tool to measure the perception of employees regarding the health of the Department. Executive management uses survey results, provided by employees, to identify strengths and weaknesses. Specific questions dealing with agency core values or that indicate a weakness, are used to initiate discussion with employees in small focus groups facilitated by the Executive Director and Deputy Executive Director. Feedback from these internal focus groups provides specific interventions to improve morale and productivity. Likely, internal focus groups identify changes and practices that are already successful, allowing the Department to extend those practices to other areas. TDLR shares the results and practices identified in the Survey with its Commission, constituents, and other state agencies.

As needed, TDLR's executive staff conducts town hall meetings with the Department staff. Each meeting concludes with an open forum for employees to discuss issues of importance. The meetings are broadcast live to the field offices via the Internet, and those employees communicate their ideas via email.

Additionally, the Commission annually reviews the performance of the Executive Director.

C. What are the agency's biggest opportunities for improvement?

TDLR's biggest opportunities for improvement are in three key areas: technological advancements, safety and accessibility inspections, and communication.

TDLR is expanding its use of technology for the delivery of services and the dissemination of information to the public and regulated population. The 77th Legislature provided TDLR with appropriation for the purchase of a comprehensive licensing system to replace its current HP 3000 platform. TDLR is also implementing an imaging system to manage documents electronically. The conversion of the system will provide TDLR with its greatest opportunity for improvement in every aspect of its operations. The new technology platform will allow TDLR to add new programs easily and provide online license renewals, submission of inspection reports, and access to imaged documents. These two systems will complement each other and will allow for the greatest efficiency of services.

TDLR continually seeks new and innovative ways to improve its accessibility and safety inspection programs. The agency has realigned its Architectural Barriers functions to improve the timeliness, efficiency and effectiveness of inspections. This realignment should result in greater accessibility for Texans with disabilities. TDLR is comprehensively reviewing its inspection process to further streamline the program's functions.

TDLR is incorporating new technology into the boiler, Industrialized Housing & Buildings, boxing, and elevator safety inspection programs to ensure greater accuracy and efficiency. For example, the boiler inspection program is transitioning third-party inspectors and insurance companies from a paper-driven filing process to an electronic filing process. The boxing inspection program is exploring technology that will vastly improve the identification of participants in boxing events and allow for evaluation and review of judges and referees. The elevator program is setting up a mechanism through which the public can electronically report elevators suspected of being unregistered or uninspected.

TDLR has committed considerable resources to improve communication. The Department has a number of avenues through which the public and the regulated population can easily access information. These include the web site, fax-on-demand system, press releases, external focus groups, program brochures, and web-based audio broadcast of commission and advisory board meetings. TDLR's primary source of communication is its web site where the public can do the following: access TDLR laws, rules, forms, databases, and technical expertise; subscribe to an email service for notification of agency announcements; register architectural barriers projects; file complaints; and explore job opportunities with the agency.

D. How does the agency ensure its functions do not duplicate those of other entities?

Discussions relating to how TDLR avoids duplication in specific programs is contained in Guide to Agency Programs, Section VI, K.

E. Are there any other entities that could perform any of the agency's functions?

There are no other entities that could perform any of the agency's primary functions. However, some entities may perform some of the program specific functions identified in Guide to Agency Programs, Section VI, J.

F. What process does the agency use to determine customer satisfaction and how does the agency use this information?

TDLR employs three methods of measuring customer service: surveys, focus groups and performance measures. Results from the customer service surveys are used to measure and identify the Department's strengths and weakness. By pinpointing areas of concern, TDLR is able to quickly improve its customer service in those particular areas. Focus groups provide the Department the opportunity to discuss our course for the future. Finally, performance measures, such as the average length of time to complete an inspection, are objective measures of the agency's responsiveness to its customers.

G. Describe the agency's process for handling complaints against the agency, including the maintenance of complaint files and procedures for keeping parties informed about the process. If the agency has a division or office, such as an ombudsman, for tracking and resolving complaints from the public or other entities, please provide a description.

Complaints against the agency are directed to the Executive Assistant to the Executive Director, as indicated in TDLR's "Compact with Texans." The Executive Director or Deputy Executive Director are notified and determine the appropriate course of action. Complaint files are maintained in the Executive Office, and complainants are notified in writing of the disposition of their complaint.

H. Please fill in the following chart. The chart headings may be changed if needed to better reflect the agency's practices.

Texas Department of Licensing and Regulation		
Chart 15: Complaints Against the Agency -- Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	0	5
Number of complaints resolved	0	3
Number of complaints dropped/found to be without merit	0	2
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	N/A	8 days

I. What process does the agency use to respond to requests under the Public Information (Open Records) Act?

The Department's response to requests under the Public Information Act (the Act) is coordinated through the Open Records Coordinator in the Office of the General Counsel.

When a request for information is received it is immediately forwarded to the Open Records Coordinator. Within 10 days, the Open Records Coordinator will provide the requested material, notify the requestor that additional time and resources are needed to fill the request, or notify the requestor that material is being withheld pending an Attorney General's opinion.

The Department waives fees for the production of documents, up to 24 copied pages. If the cost exceeds \$40, TDLR notifies the requestor before the materials are furnished. If the cost exceeds \$100, TDLR requires prepayment. If no response is received within 10 days, the Department considers the request to be withdrawn.

J. Please fill in the following chart with information that is as current and up-to-date as possible:

Texas Department of Licensing and Regulation	
Chart 16: Contacts	
INTEREST GROUPS	
(groups affected by agency actions or that represent others served by or affected by agency actions)	
Group or Association Name/ Contact Person	Address
ACCA San Antonio Jack Lappeus	8114 Timber Grove San Antonio, Texas 78250
Arnold Refrigeration, Inc. David Evans	20817 Pacers Gait Pflugerville, Texas 78660
Arnold Refrigeration, Inc. Ronald Malek	1122 North Cherry San Antonio, Texas 78202
Kitcheneering Div. Of Heart of Texas Food Equipment,	657 Ruby

Inc.	Waco, Texas 76710
SBCCI, SW Regional Office Jack D. Burluson, Manager	9420 Research Blvd. Echelon III, Ste. 150 Austin, Texas 78759
ACCA Greater Houston Betty Kristoffersen, Executive Director	2600 S. Gessner, Suite 111 Houston, Texas 77063
ICBO Carroll Pruitt	3355 Bee Caves Rd., Bldg. 4, Ste. 404C Austin, Texas 78746
Tri-County R.S.E.S.	1223B Industrial Drive New Braunfels, Texas 78130
City of San Angelo Ted Nichols	P. O. Box 1751 San Angelo, Texas 76902-1751
Heating and A/C Earl Heard	P. O. Box 851 San Angelo, Texas 76902
The Duct Doctor Ray Reynolds	P. O. Box 560805 The Colony, Texas 75056
Valley Chapter-ACCA/c/o AIRTECH Darren Mangham, President	P. O. Box 3959 South Padre Island, Texas 78597
TU Electric Bill Aubrey	P. O. Box 660268 Dallas, Texas 75266-0268
CIMCO Rich Hartis	P. O. Box 35 La Marque, Texas 77568
Harvey's Service	3900 Valley View Road Austin, Texas 78704
SEARS #5587 David Welch	1617 Kings Road Garland, Texas 75042
Goode A/C & Heating Ken Goode	1730 First Street Humble, Texas 77338
Texas Building Branch AGC Mike Chatron	816 Congress Avenue, Suite 950 Austin, Texas 78701-2443
James Lane Air Conditioning James Lane	5024 Jacksboro Highway Wichita Falls, Texas 76302
Bayer Corporation Matt Stewart	8500 West Bay Road Baytown, Texas 77520-9730
CBO Inspection	P. O. Box 58065 Houston, Texas 77258
Examination Specialists Robert Williamson	P. O. Box 58065 Houston, Texas 77258
MCA Jim Reynolds	1310 East 51 st Street Austin, Texas 78723
Airworks Service Company John M. Gill	9701 Carnegie Avenue, Suite O El Paso, Texas 79925
SEARS #5587 Karen Welch	1617 Kings Road Garland, Texas 75042
SEARS #5587 Hal Bartel	1617 Kings Road Garland, Texas 75042
SEARS #5587 Les Seiple	1617 Kings Road Garland, Texas 75042
SEARS #5587 Richard Cabla	4543 Bermuda Drive Sugar Land, Texas 77479
CFC Dan Cooper	P. O. Box 560 Abilene, Texas 79604
Austin-ACCA Kate Bennett	11809 Highland Oaks Trail Austin, Texas 78759
TACCA Todd McAllister	800 Brazos, Suite 740 Austin, Texas 78701
Coastal Bend-ACCA Dona Escue	13841 Halyard Corpus Christi, Texas 78418
ACCA-Lubbock/Ideal Heating and Air	P. O. Box 1685

Roy Jones	Lubbock, Texas 79408-1685
ACCA-Midland/First Service David Grosse	3009 Garden City Highway Midland, Texas 79701
ACAA-Texarkana/Price Service Company John Price	2704 Walnut Texarkana, Texas 75503
SEARS Gail King	P. O. Box 41483 Houston, Texas 77241-1483
William & Davis Boilers, Inc. Mr. Eddie Davis	P. O. Box 539 Hutchins, Texas 75141
Sears, Roebuck and Co. Earl Todd, Tech Manager, Product Serv	3333 Beverly Road, E5-120A Hoffman Estates, IL 60179
Niemann & Niemann, L.L.P. Larry Niemann	1122 Colorado St, Westgate Bldg Suite 313 Austin, Texas 78701
ACAA-Abilene/Liberty Mechanical Gary Jamison	P. O. Box 5060 Abilene, Texas 79608
ACAA-Brazos/Malek Services Brant Malek	2603 Roundtree Drive, #102 Bryan, Texas 77801
ACCA-El Paso/Harris Heating and Cooling Jerry Harris	3917 Tompkins El Paso, Texas 79930
Latham and Watkins, Attys. At Law Diana S. Doyle	Sears Tower, Suite 5800 Chicago, Illinois 60606
Pascoe Brokerage	P. O. Box 260399 Plano, Texas 75026-0399
White Electric, Inc. Georgia Clifton	P. O. Box 631249 Nacogdoches, Texas 75963
Curt Green & Company Larry Bunn	P. O. Box 337 Texarkana, TX 75504
Howell & Britt Bobby Howell	1921 Moores Lane Texarkana, Texas 75503
Murray, Thomas & Griffin, Inc. Bob Murray, P.E.	P. O. Box 3786 Texarkana, Texas 75501
Williamson Construction Co. Aven Williamson	1941 Moores Lane Texarkana, Texas 75503
Marks Design Group Kimberly Marks	405 N St. Mary Street, Suite 1000 San Antonio, Texas 78205
IDS/B, Inc. Irving Schwarts	2777 Stemmons Expwy., Suite 1650 Dallas, Texas 75207
Graves, Dougherty, Hearon & Moody Rick Triplett	515 Congress Ave., Suite 2300 Austin, Texas 78701
Coalition of Texans with Disabilities Dennis Borel, Executive Director	316 West 12 th Street, Room 405 Austin, Texas 78701
Texas Architectural Foundation David Lancaster, Executive VP	816 Congress Avenue, Suite 970 Austin, Texas 78701
TX Society of Professional Engineers John Greeley, Director, Pub. Relations	P. O. Box 2145 Austin, Texas 78768
Herring Design Group Earl Herring, AISD Chairman	1619 Tyler Amarillo, Texas 79105
Advocacy, Inc. Judith Sokolow	7800 Shoal Creek Blvd., Suite 171-E Austin, Texas 78757
Disability Access Office Judy Babbitt	City of San Antonio San Antonio, Texas 78283-3966
National Guest Homes, Inc. Marge Matthews, VP of Operations	8550 Katy Freeway, Suite 210 Houston, Texas 77024
Development & Regulatory Affairs Philip J. Downey, Marriott VP	Senior Living Services Washington, DC 20058
Disability Policy Consortium Jonas Schwartz, Program Admin.	7800 Shoal Creek Blvd., Ste. 171E Austin, Texas 78757
American Foundation for the Blind	260 Treadway Plaza

Judy Scott	Dallas, Texas 75235
Texas American Council of the Blind Nadine Saffell	3715 Darlingherst Houston, Texas 77045
AARP Roy Ray	7612 Shoal Creek Austin, Texas 78757
Texas Architectural Foundation Gay Patterson	816 Congress Ave., Ste. 970 Austin, Texas 78701-2443
City of San Marcos Robert P. Ronson, Develop. Coordinator	630 East Hopkins San Marcos, Texas 78666
Committee for the Deaf & Hearing Impaired, Rose Aird Minette, Gov. Office	4800 North Lamar, Ste. 310 Austin, Texas 78756
Department of Public Inspection, City of El Paso, Terry L. Williams, AIA, CBO	2 Civic Center Plaza El Paso, Texas 79901
Baptist General Convention Of TX Keith D. Crouch, Director	333 North Washington Dallas, Texas 75246
Pross Design Groupings Mark Pross	2607 Walnut Hill Lane #100 Dallas, Texas 75229
McGinnis, Lochridge & Kilgore, LLP Gaylord Armstrong	1300 Capitol Center Austin, Texas 78701
Advocacy, Inc. Garth Corbett	7800 Shoal Creek Blvd., Ste. 171-E Austin, Texas 78757
American Institute of Architects, Ft. Worth Suzie Adams, Executive Director	1425 8 th Avenue Fort Worth, Texas 76104
INSPEC Susan Lincoln	4101 McEwen, Suite 170 Dallas, Texas 75244
Insignia Retail Group, Inc. Mary E. Schlossman	3100 Monticello Drive, Suite 400 Dallas, Texas 75205
TSG Architects	427 Saint George Gonzales, Texas 78629
ADAPT of Texas David Wittie	1339 Lamar Square Drive, #B Austin, Texas 78704
ADAPT of Texas Rona Schnall	3506 Manchaca Road, #124 Austin, Texas 78704
Swico Auctions Jim Swigert	1301 Glade College Station, Texas 77840
Houston Community College Dr. Ruth Burgos-Sasscer, Chancellor	22 Waugh Drive, System MC-1106 Houston, Texas 77007
East Texas State University Dr. Robert Folden, Director	Division of Continuing Education Commerce, Texas 75429-3011
Windmill Auction Company John C. Butler	P. O. Box 609 Sour Lake, Texas 77659
Assister & Associates Tommy R. Assister II, CAI	P. O. Box 8005 Amarillo, Texas 79114-8005
Pleasant Auctioneers International Ezra C. Pleasant CAI	22604 South IH-35 Kyle, Texas 78640-5330
MB Valuation Services, Inc. Leslie H. Miles, Jr.	1111 Empire Central Drive Lake Jackson, Texas 77566
Brazosport College Charles W. Becker	500 College Drive Lake Jackson, Texas 77566
Connour Auction Charles Connour	5301 Coventry Court Colleyville, Texas 76034
Horizon Environmental Services George L. Vaught	2600 Dellana Lane, Suite 200 Austin, Texas 78746
Shell Chemical Company Edward A. Doe, TSP2232	P. O. Box 2099 Houston, Texas 77252-2099
Bernard Haldane Associates Ian McClure	12750 Merit Drive, Suite 200 Dallas, Texas 75251
Career Dimensions	6330 LBJ, Suite 136

Ms. Taunee Besson	Dallas, Texas 75240
Fairchild, Barclay & Associates R. J. Porter	Plaza On the Parkway, Ste. 1000 15770 N. Dallas Pkwy., Dallas, TX 75248
Michael Geller Attorney at Law	P. O. Box 25277 Dallas, Texas 75225
Arena Operating Company	10 Greenway Plaza Houston, Texas 77046
G. Promotions	417 North 1 st Harlingen, Texas 78550
Gloves Off LLC	7140 S. Lewis Tulsa, Oklahoma 74136
Joe Garcia c/o The Honorable Eddie Lucio, Jr.	Capitol Bldg., GE.4 Austin, Texas 78711
Promotions, Inc. Joe Hand	407 E. Pennsylvania Feasterville, PA 19053
Joe Valle Sports Promotions	1120 East 10 th Street Brownsville, Texas 78520
Joltin' Joe Productions, Inc.	5909 Kansas Street Houston, Texas 77007
Munisteri Sports & Entertainment	3323 Richmond Houston, Texas 77098
Promotions of America, Inc.	P. O. Box 1718 McAllen, Texas 78501
Punch for Pay Promotions	6705 Modesto Austin, Texas 78757
Vida Boxing Promotion	213 Frio Drive Portland, Texas 78374
Championship Banner Dean Coleman	P. O. Box 11060 Greenwich, CT 06831
North American Boxing Federation	1430 Sundance Reno, Nevada 89511
The Gym Michael J. Bussey	2911 East Division #428 Arlington, Texas 76011
International Shoot Wrestling Federation	1010 Lamar #1320 Houston, Texas 77002
American Shoot Wrestling Manuel Garcia	703 West 27 th Street Plainview, Texas 79072
NCAA Licensing Kathy Bowman	P. O. Box 6222 Indianapolis, Indiana 46206-6222
North American Boxing Federation	5307 East Mockingbird Lane Dallas, Texas 75206
US Olympic, Sports Medicine Committee Tim Garl	One Olympic Plaza Colorado Springs, Colorado 80909
American College of Sports Medicine	Box 1440 Indianapolis, Indiana 46206-1440
Athletic Health Care System Division of Sports Medicine	GB-15 University of Washington Seattle, Washington 98195
National Academy of Sports Medicine	2434 North Greenview Ave. Chicago, Illinois 60614
National Institutes of Health, National Institute of Allergy & Infectious Diseases	31 Center Drive MSC2520, Building 31, Room 7A-50, Bethesda, MD 20892-2520
Centers for Disease Control and Prevention	1600 Clifton Road NE, Mail Stop FO5 Atlanta, Georgia 30333
Department of Health & Human Services Ntnl. Institute for Occup. Safety & Health	200 Independence Avenue, SW 317B Washington, DC 20201
Montgomery Kone, Inc. Max Stanley, Service Manager	8221 Tristar Drive Irving, Texas 75063-2816
VTM Elevator Company	5011 Wake Forest Street

Nelson Bellesheim, Jr.	Houston, Texas 77005
City of El Paso, Building Services Dept. Terry L. Williams, AIA, CBO	2 Civic Center Plaza El Paso, Texas 79901
Crescent Real Estate Equities Ernest T. Freyer	2000 South Post Oak, Suite 1950 Houston, Texas 77056
Raymond D. Powell Architect Raymond Powell	#3 Crescent Place Lubbock, Texas 79416
W. E. Simpson Co., Inc. Douglas Steadman	1100 NE Loop 410, Suite 200 San Antonio, Texas 78209-1574
City of El Paso - Dept. of Public Inspection Terry L. Williams, AIA, CBO	2 Civic Center Plaza El Paso, Texas 79999
Hillborn, Werner, Carter & Associates Kenneth Godfrey	1627 South Myrtle Avenue Clearwater, Florida 33516
NTA, Inc. David R. Tompos, P.E.	P. O. Box 490 Nappanee, Indiana 46550-0490
NTA, Inc., Southwest Region Richard Roberts, P.E.	6836 Bee Caves Road Austin, Texas 78746-5008
NTA, Inc., Mid Atlantic Region Jerry L. Brosius	42 Sunfire Avenue Camp Hill, Pennsylvania 17011
Progressive Engineer Ned Myers	58640 State Road 15 Goshen, Indiana 46526
RADCO Rich Marchman, CBO	3220 East 59 th Street Long Beach, California 90805
SBCCI Glenn Winslow, P.E.	900 Montclair Road Birmingham, Alabama 35213-1206
T.R. Arnold & Associates, Inc. Ronald F. Hansing, P.E.	P. O. Box 1081 Elkhart, Indiana 46515
SBCCI-SW Regional Office Jack D. Burluson, Manager	9420 Research Blvd., Echelon III Ste. 150 Austin, Texas 78759
ICBO Carroll L. Pruitt	3355 Bee Caves Road, Bldg. 4-Ste. 404C Austin, Texas 78746
City of Pasadena, Planning and Permitting Bob Fowler	175 North Garfield Avenue Pasadena, California 91101-7215
Fibrebond Corporation Bo Hanley	1300 Davenport Drive Minden, Louisiana 71055
GE Capital Modular Space Dennis Edwards	16479 Dallas Parkway, Suite 600 Dallas, Texas 75007
PFS Corporation James Hopland, P.E.	9550 Skillman, Suite 515 Dallas, Texas 75243
City of Arlington Charles L. Clawson	P. O. Box 231 Arlington, Texas 76010
S&B Engineers & Constructors, Ltd. Karen A. Barrett, P.E.	2810 North Spring Drive Spring, Texas 77373-5868
City of Waco George E. Walker, Sr.	P. O. Box 2570 Waco, Texas 76702-2570
PACE Entertainment Jeffry B. Lewis	2000 West Loop South, Suite 1300 Houston, Texas 77027-3512
MPA Modular, LLC Steven E. Widtfeldt	8242 Crestview Road Sanger, Texas 76266-6266
Ramtech Modular Design, Inc. Michael Slataper	1400 U.S. Highway 287 South Mansfield, Texas 76063
Kelly Services Gretchen Bates	999 West Big Beaver Road Troy, MI 48084
Trendsetter Staffing Larry Kosta	1800 Guadalupe, Suite E Austin, Texas 78701-1235
Rice and Associates, Attorneys and Counselors, Robert C. Rice	1010 Lamar, Suite 1010 Houston, Texas 77002
NAAS	807 Brazos, Suite 201

Cordell Hull	Austin, Texas 78701
NSLA Michael Marks	823 Congress, Suite 1300 Austin, Texas 78701
Administaff, Inc. John H. Spurgin	19001 Crescent Springs Drive Kingwood, Texas 77339
Leasing Services, Inc. Karen Joffrion	3218 Hwy. 67, Suite 201 Mesquite, Texas 75150
Staff Leasing of Texas c/o Unemployment Services	P. O. Box 25020 Bradenton, Florida 34206
McGinnis, Lochridge, & Kilgore, LLP Ashton Cumberbatch	919 Congress, Suite 1300 Austin, Texas 78701
Staff Leasing of Texas Rey Martinez	2401 Gateway Drive, Suite 114 Irving, Texas 75063
Diane's School of Modeling	1410 South Washington Street Amarillo, Texas 79102-1649
Page Parks Models Rep. Page Parkes	3303 Lee Parkway #205 Dallas, Texas 75219
Neal Hamil Agency	7887 San Felipe, #227 Houston, Texas 77063
Peggy Taylor Talent, Inc.	1825 Market Center Blvd., #320-A Dallas, Texas 75207
Kim Dawson Agency, Inc. Sylvia Gill	2710 N. Stemmons Frwy., Ste. 700 Tower N Dallas, Texas 75207-2208
Actors Clearinghouse Sam Balkum	501 North IH-35 Austin, Texas 78702
D B Talent Debora Duckett	3107 Slaughter Lane-W, Ste. A Austin, Texas 78748
Condra/Artista Denise Coburn	13300 Old Blanco Road, Suite 201 San Antonio, Texas 78216
Actors Denise Coburn	2620 Fountainview, Suite 210 Houston, Texas 77057
Model Search America F. David Mogull, President	588 Broadway, Room 711 New York, New York 10012-5411
AFTRA/SAG Kenneth Freehill	6060 N. Central Expwy., #302, LB604 Dallas, Texas 75206-5293
BLVD Company, Inc. Cynthia Robbins	4855 Twin Valley Drive Austin, Texas 78731
The Campbell Agency Nancy Campbell	3906 Lemmon Ave., Ste. 200 Dallas, Texas 75219
Daniel Horne Agency	4420 West Lovers Lane Dallas, Texas 75209-3130
K Hall Agency	700 Rio Grande Street Austin, Texas 78701-2720
Ciao! Talents Cammie Harper	11303 Slippery Elm Austin, Texas 78750
Ciao! Talents Liz Atherton	1310 East University Avenue Georgetown, Texas 78626
Performance Talent Agency Kay Lynn Scott	P. O. Box 93 San Saba, Texas 76877
Dallas Model Group Edward Beakey	12700 Hillcrest Road, Suite 143 Dallas, Texas 75230
Calliope Talent Kristy Taylor	1802 NE Loop 410, Suite 300 San Antonio, Texas 78217-5214
AFTRA-SAG Jack Dunlop	2400 Augusta Drive #264 Houston, Texas 77057
W.G. Warranty & Insurance Services Mark O'Connell	16501 Ventura Blvd, Suite 200 Encino, California 91436
Robert Dungan & Associates	33 Page Avenue, Suite 200

Robert Dungan	Asheville, North Carolina 28801
C.N.A. Rick Jones	P. O. Box 2840 Scottsdale, Arizona 85252-2840
Amerran David Jones	9901 West 50 th Avenue Wheat Ridge, Colorado 80033
Universal Underwriters Insurance Co. Scott McMillan	7045 College Blvd. Overland Park, Kansas 66211
Phoenix American Insurance Group	6303 Blue Lagoon Drive, Suite 225 Miami, Florida 33126
Wells, Marble & Hurst Bridget Hansford	P. O. Box 131 Jackson, Mississippi 39205-0131
Old Republic	P. O. Box 470185 Tulsa, Oklahoma 74147-0185
Toyota Motor Insurance Services Regulatory Affairs Laure DeVincenzi-TC20	P. O. Box 2916 Torrance, California 90509-2916
US Warranty Corporation Laura Padula	22 NE 22 nd Avenue Pompano Beach, Florida 33062
ACE USA Denise Santoro	4550 River Green Parkway, Suite 220 Duluth, Georgia 30096
Gulf States Financial Services Diane Greene	13201 NW Freeway, Suite 801 Houston, Texas 77040
Royal Warranty Services David Schneider	P. O. Box 472488 Charlotte, North Carolina 28247-2488
Brokerage Professional, Inc. Jane Goritz	1701 Golf Rd., Contntl Twrs II, Ste. 1200 Rolling Meadows, Illinois 60008
J.D. Autocorp, Inc. Lynn Twonbly	P. O. Box 981011 El Paso, Texas 79998-1011
Lyndon-DFS Warranty Service Nona Schroeder	520 Maryville Centre Drive, Suite 500 St. Louis, MO 63141-5814
Intercontinental Warranty Services, Inc. Angie Hospodor	600 West Hillsboro Blvd., Suite 250 Deerfield Beech, Florida 33441
Lyndon-DFW Warranty Services, Inc.	520 Maryville Centre Drive, Suite 500 St. Louis, MO 63141-5814
American Mercury Insurance Company Tanya Bryant 5-S	P. O. Box 268847 Oklahoma City, Oklahoma 73126-8847
National Electronics Warranty Corporation Robert D. Horvath, Jr.	2422 Tracy Place NW Washington, DC 20008
American Modern Insurance Group Sheila Batchler	P. O. Box 5323 Cincinnati, Ohio 45201
SBC Communications, Inc. David Baker	175 East Houston, Room 4-C-90 San Antonio, Texas 78205
Vinson & Elkins Lori Bley	600 Congress, Suite 2700, One American Center, Austin, Texas 78701
Western Diversified Christine Andrade	P. O. Box 770 Deerfield, Illinois 60015-0070
DeLeon, Boggins & Icenogle Pat Washburn	221 West 6 th Street, Suite 1050 Austin, Texas 78701
Akin Gump Mark Vane	816 Congress, Ste. 1900 Austin, Texas 78701
2-10 Home Buyer's Warranty Robert Y. Bonham	1620 East Las Olas Blvd. Ft. Lauderdale, Florida 33301
Phoenix American Insurance Group R. Steven Brooks	6303 Blue Lagoon Drive, Suite 225 Miami, Florida 33126
ACE USA Westchester Warranty Services Shaun M. Fetherston	102 Colonnade Peachtree City, Georgia 30269
Warrantech Corporation Jeanine M. Folz	300 Atlantic Street Stamford, CT 06901
General Electric Company	7000 Springdale Road

Terry Hawkins	Louisville, Kentucky 40241
C.N.A. Western National Warranty Corp. Robert Jones	654 N. Loma Linda Circle Mesa, Arizona 85213
Virginia Surety Company Peter Lee	710 Oakton Street #206 Evanston, Illinois 60202
Universal Underwriter Group D. Scott McMillin, Jr.	13701 West 82 nd Terrace Lenexa, Kansas 66215
Warrantech Corporation M. Joel Prather	1132 Avalon Valley Drive Danbury, CT 06810
Polsinelli, White, Vardeman & Shalton Michael Reidy	700 West 47 th Street, Suite 1000 Kansas City, MS 64112
North American Group of Companies Mark P. Cohen	2901 Butterfield Road Oak Brook, Illinois 60523
Darwin Pace Government Affairs	11222 Quail Roose Drive, 2 nd Floor Miami, Florida 33157
Warranty Corporation	4400 Government Blvd. Mobile, Alabama 36693
AUL Corporation Ron Gardner	3109 Knox Street, Suite 201 Dallas, Texas 75205
Interstate National Dealers Services The Omni	333 Earl Ovington Blvd., Suite 700 Mitchell Field, New York 11553-9340
Bonded Builders Brad Martz	2201 Corporate Blvd., Suite 100 Boca Raton, Florida 33431
LFD Home Furnishings Richard DeLeon	2321 West Expressway 83 McAllen, Texas 78503
Automotive Professional, Inc. Judy Allen	1701 Golf Road - Tower II, Suite 1200 Rolling Meadows, Illinois 60008
Richardson Enterprises David Hettema	P. O. Box 162367 Austin, Texas 78716
Zurich Insurance Carol Corr	1400 American Lane Schaumburg, Illinois 60196
Motors Insurance Corporation Marylou MacDonald	3044 West Grand Blvd. 4821X3-01 Detroit, Michigan 48202
Fidelity Warranty Services DeAnna Bodine	500 NW 12 th Avenue Deerfield Beach, Florida 33442
Proguard International, Inc. Edie Moore	P. O. Box 3615 Laguna Hills, California 92653
Cantey & Hanger, Roane & Autrey Julie Lane	400 West 15 th , Suite 200 Austin, Texas 78701
Car Choice, Inc. Jim Copeland	4820 Avenue H Rosenberg, Texas 77471
Thomson & Knight, LLP James Peacock	1700 Pacific Avenue, Suite 3300 Dallas, Texas 75201
American Auto Guardian Al Ranieri	350 West Kensington Road, Suite 108 Mount Prospect, Illinois 60056
American International Group Michael Ryan	175 Water Street, 14 th Floor New York, New York 10038
Gulf States Financial Services, Inc. Norma D. Romo, Legal Department	13201 Northwest Freeway, Suite 801 Houston, Texas 77040
Virginia Surety Company, Inc. James Coen	123 North Wacker Drive Chicago, Illinois 60606
Mechanical Breakdown Administrators Margorie Smith	9419 East San Salvador, Suite 105 Scottsdale, Arizona 85258
RCM Technologies Patrick MacKay	3001 LBJ Freeway, Suite 235 Dallas, Texas 75234
Vincent & Elkins Barry Burgdorf	600 Congress, Suite 2700 Austin, Texas 78701
Enterprise Financial Group	1901 Gateway

Don Green	Irving, Texas 75038
MPP Company Gerald Lamb	P. O. Box 634 Shawnee Mission, Kansas 66201
IAS, Inc. Susan Farr	12800 Angel Side Drive Leander, Texas 78641
Locke, Liddell & Sapp Tim Denker	2200 Ross Avenue, Suite 2200 Dallas, Texas 75201
Phoenix American Suzette Bar	6303 Blue Lagoon Drive, Suite 255 Miami, Florida 33126
Thompson & Knight, LLP Sarah McLean	1200 Smith Street, Suite 3600 Houston, Texas 77002
Lord, Bissell & Brook Franklin T. Dunn	300 South Grand Avenue, 8 th Floor Los Angeles, California 90071
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Barton Springs/Edwards Aquifer Conservation Dist., Stovy Bowlin, Manager	1124-A Regal Row Austin, Texas 78748
Coke County Underground Water Conservation Dist., Winton Milliff, Manager	P. O. Box 1110 Robert Lee, Texas 76945
Collingsworth County Underground Water Conservation Dist., Neil Davis, Manager	802 Ninth Street Wellington, Texas 79095
Dallam County Underground Water Conservation Dist #1, Kenneth Diller, Pres	HCR 1, Box 938 Texline, Texas 79087
Edwards Aquifer Authority Rick Illgner, Manager	1615 North Saint Mary's Street San Antonio, Texas 78215-1415
Emerald Underground Water Conservation Dist., Dennis Clark, Manager	P. O. Box 1458 Ozona, Texas 76943
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Fox Crossing Water District Dale Henry, Chairman	P. O. Box 157 Mullin, Texas 79864
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Gonzales Underground Water Conservation Dist., Bill Hyman	P. O. Box 1490 Gonzales, Texas 78629
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I, Stanley Reinhard, Manager	Brady, Texas 76825
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Saratoga Underground Water Conservation. Dist., The Honorable Norris Monroe	P. O. Box 231 Lampasas, Texas 76550
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VIII. 77th Legislative Session Chart

Fill in the chart below or attach information if it is already available in an agency-developed format. In addition to summarizing the key provisions, please provide the intent of the legislation. For example, if a bill establishes a new regulatory program, please explain why the new program is necessary (e.g., to address specific health and safety concerns, or to meet federal mandates). For bills that did not pass, please briefly explain the issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation).

Texas Department of Licensing and Regulation Chart 17: 77th Legislative Session		
Legislation Enacted in the 77th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent
HB 66	Rep. Jim Pitts	Changes expiration dates of Water Well Drillers licenses
HB 71	Rep. Jim Pitts	Changes expiration dates of Water Well Pump Installers licenses
HB 196	Rep. Arthur Reyna	Changes a code reference in Air Conditioning Law
HB 1214	Rep. Jim Pitts	Housekeeping legislation primarily for TDLR's enabling statute
HB 1216	Rep. Jim Pitts	Changes definition of a Talent Agent
HB 2813	Rep. Steven Wolens	Recodification of statutes for Industrialized Housing and Building, Property Tax Consultants, Transportation Service Providers, Air Conditioning and Refrigeration, Water Well Drillers, and Water Well Pump Installers. Codification takes effect June 2003.
HB 2735	Rep. Senfronia Thompson	Creates licensing of court interpreters for people who do not comprehend or speak English. Regulation is needed to ensure the competency of court interpreters and to protect the integrity of the judicial process. Licensing requirements are effective January 2002.
SB 484	Senator Robert Duncan	Provides for Registration of accessibility specialists and prevents municipalities from issuing a building permit without verification that the building has registered with the Department. Regulation of accessibility specialists is needed to allow the Department to assess administrative penalties and sanctions if the accessibility laws and standards are not being followed. Registration requirements are effective January 2002.
SB 645	Senator Florence Shapiro	Establishes an electronic occupational licensing system. TDLR is represented on the established steering committee.
SB 714	Senator David Sibley	Creates registration of certain warrantors of vehicle protection products. Regulation is needed to ensure the financial integrity of warranties offered to consumers. Registration requirements are effective January 2002.
SB 1175	Senator Jeff Wentworth	Transfers the weather modification licensing and permitting program from the Texas Natural Resources Conservation Commission. Transfer is effective September 1.
Legislation Not Passed in the 77th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent
HB 67	Rep. Jim Pitts	Deleted Talent Agent license renewal language redundant with enabling statute.
HB 68	Rep. Jim Pitts	Deleted Personnel Employment Services and Career Counselor administrative procedure language redundant with enabling statute.
HB 69	Rep. Jim Pitts	Deleted Auctioneer administrative procedure language redundant with enabling statute.
HB 70	Rep. Jim Pitts	Changed violation notification procedure for Elevators.
HB 72	Rep. Jim Pitts	Deleted Staff Leasing Services administrative procedure language redundant with enabling statute.
HB 199	Rep. Jim Pitts	Provided for Registration of accessibility specialists and changes some

		provisions of the Architectural Barriers Law. Companion bill of SB 484.
HB 1077	Rep. Pat Haggerty	Voluntary registration of locksmiths.
HB 1399	Rep. Kim Brimer	Worker' compensation insurance coverage for employees placed through a staff leasing services company
HB 1558	Rep. Kip Averitt	Registration of certain warrantors of vehicle protection products. Companion bill SB 714 passed.
HB 1733	Rep. Joe Moreno	Licensing requirements for labor halls in certain municipalities.
HB 2451	Rep. Ron Wilson	Regulation of elevators, escalators, and related equipment.
HB 2849	Rep. Kim Brimer	Registration of roofing contractors.
HB 2984	Rep. Frank Corte	Licensing of air conditioning contractors and technicians.
HB 3047	Rep. Charlie Geren	Regulation of elevators, escalators, and related equipment.
HB 3188	Rep. Robert Puente	Plugging of abandoned or deteriorated water wells.
HB 3230	Rep. Gary Walker	Transfer the weather modification licensing and permitting program from the Texas Natural Resources Conservation Commission. Companion bill SB 1175 passed.
HB 3546	Rep. Warren Chisum	Creating an environmental building code for counties to be able to enact.
SB 540	Senator David Sibley	Adopting standards for the practice of air conditioning and refrigeration contracting.
SB 957	Senator J. E. "Buster" Brown	Registration of providers of loss damage waiver in certain rental-purchase agreements.
SB 1198	Senator John Carona	Regulation of elevators, escalators, and related equipment.
SB 1527	Senator Florence Shapiro	Changing number of commissioners from 6 to 5.
SB 1622	Senator Gonzalo Barrientos	Regulation of mobile amusement park rides.
SB 1674	Senator Mike Jackson	Licensing of air conditioning contractors and technicians.

IX. Policy Issues

The purpose of this section is to briefly describe any potential policy issues that would help the agency operate better and improve service delivery. This section is intended to give the Sunset Commission a basic understanding of the issues so staff can develop more information during our detailed research on the agency. Some questions to ask in preparing this section may include: (1) How can the agency do a better job in meeting the needs of clients or in achieving agency goals? (2) What barriers exist that limit the agency's ability to get the job done?

Emphasis should be given to major policy issues and issues appropriate for resolution through changes in state law. Issues related to funding or actions by other governmental entities (federal, local, quasi-governmental, etc.) may be included, but the Sunset Commission has no authority in the appropriations process or with other units of government. If these types of issues are included, the focus should be on solutions which can be enacted in state law. Focus should also be given to areas where the agency can improve its interaction with other state agencies.

The policy issues presented should not be limited to issues the agency supports, and inclusion of issues in this document will not be interpreted as an endorsement by the agency.

This section contains three components:

1. Brief Description of Issue. Often, the issue is best presented as a question, e.g., "Should the agency be required to . . . ?"

2. Discussion. Include enough background information to give context for the issue. Information helpful in building context includes:
 - ? What is the general scope of the issue?
 - ? What is the agency's authority (statutory or other) related to the issue?
 - ? What is the current practice or situation related to the issue?
 - ? Any previous legislative action related to the issue?

3. Possible Solutions and Impact. Provide specific recommendations to solve the problem. Keep in mind each issue may have multiple and/or competing solutions. Feel free to include a more detailed discussion of each proposed solution. This section should also include the impact of the proposed solution, including:
 - ? Will the proposed change impact any entities or interest groups?
 - ? How will the performance of the agency be impacted by the proposed change?
 - ? What are the benefits of the recommended change?
 - ? What are the possible drawbacks of the recommended change?
 - ? What is the fiscal impact of the proposed change?

Please complete this section for each policy issue.

Auctioneers

A. Brief Description of Issue

Consumers seeking payment from the Auctioneer Education Recovery Fund are required to file a claim, separate from any court judgment, with the Department.

B. Discussion

Currently, a consumer must file a claim with the Department and pay a \$50 filing fee. The Department processes the claim through the administrative hearing process. The claim may be filed even if an auctioneer has not shown any unwillingness or inability to pay any potential damages. As such, the Fund is often used as the first line of damage recovery instead of the reparation of last resort.

C. Possible Solutions

A claim on the Auctioneer Education Recovery Fund should be tied to an unpaid civil judgment against a licensed auctioneer. In order for a consumer to receive a claim, an auctioneer must be unable or unwilling to pay a civil penalty. The process should model that of the Real Estate Recovery Fund administered by the Texas Real Estate Commission.

Career Counselors Services

A. Brief Description of Issue

The Career Counselor program provides similar consumer protections to that of the Deceptive Trade Practices Act and does not cover the cost of administering the program.

B. Discussion

The Deceptive Trade Practices Act (DTPA) provides ample protection to consumers from harm caused by many unregulated industries. In fact, the consumer may even recover more damages through DTPA than through specific

regulation of career counselors. The Department licenses approximately 20 career counselors, making it difficult to set reasonable fees to recover the Department's cost of administering the program.

C. Possible Solutions

Regulation of the Career Counselor industry should be abolished and consumer protection should be provided under the Deceptive Trade Practices Act.

Elevators, Escalators, and Related Equipment (I)

A. Brief Description of Issue

The Elevator law requires each elevator to be inspected at least once every calendar year, yet allows for up to 18 months between each inspection.

B. Discussion

The yearly and 18-month inspection requirements are confusing to building owners. Additionally, because of the normal mechanical wear and tear on elevators, the lengthened inspection time could increase the risk to the public. Lastly, some elevators fail to meet their inspection requirements because not enough inspectors are available to perform inspections on the disproportionately high number of elevators that come due for inspection in December.

C. Possible Solutions

Elevators should be required to be inspected annually, with the interval between inspections of no more than 12 months. The calendar year and 18-month inspection requirements should be abolished.

Elevators, Escalators, and Related Equipment (II)

A. Brief Description of Issue

The elevator statute establishes most fee amounts, limiting TDLR's ability to adjust fees to recover costs.

B. Discussion

TDLR's enabling statute requires the Department to recover the cost of administering programs. Statutory fees hinder the Department's financial flexibility and could result in unforeseen revenue shortfalls. This issue is longstanding. The Texas Sunset Advisory Commission's 1988 staff report on the Department found that "statutorily set fees are limiting to the agency as costs of program operations change since the agency would have to go through the legislative process to change fees." The staff consequently recommended that statutory fees or limits should be abolished.

C. Possible Solutions

The Elevator program's statutorily set fees should be abolished and should be set by Rule by the Commission.

Elevators, Escalators, and Related Equipment (III)

A. Brief Description of Issue

Too many buildings with elevators in Texas are not registered with the Department.

B. Discussion

In order to track the inspection and compliance history of elevators, TDLR registers buildings with elevators, escalators and related equipment. Basically, a building becomes registered when an owner files an inspection report. If an elevator has never been inspected or has never had an inspection report filed with the Department, the building is most likely unregistered. As a result, TDLR's ability to ensure compliance is hindered and public safety is compromised. TDLR must have the resources to better identify buildings that are unregistered and elevators that are not inspected.

C. Possible Solutions

The best way of identifying unregistered buildings is to require companies that install, maintain, or repair elevators to report to the Department the location or address of the equipment they have serviced. To enforce this requirement, the Department should be authorized to assess administrative penalties and sanctions against these companies.

Transportation Service Providers

A. Brief Description of Issue

The Transportation Service Providers program cannot achieve the objectives for which it was established.

B. Discussion

The program was originally established to assist law enforcement authorities in the "war on drugs" by providing information on potential drug smuggling operations. The low number of licensees and lack of complaints or inquiries indicate that the Department is expending states resources with little or no benefit.

C. Possible Solutions

Regulation of the Transportation Service Providers program should be abolished.

Water Well Driller and Pump Installer Programs

A. Brief Description of Issue

Abandoned and or deteriorated unplugged water wells threaten the quality of Texas' groundwater supply.

B. Discussion

TDLR estimates that 150,000 abandoned and or deteriorated unplugged water wells are located in Texas. Pollution in these wells may contaminate groundwater. While the law requires abandoned wells to be plugged, no accommodation exists for the plugging of wells whose owners lack the necessary financial resources or cannot be located. The unplugged wells continue to threaten the drinking water of Texas.

C. Possible Solutions

Establish a water well plugging fund similar to the Well Plugging Fund administered by the Texas Railroad Commission for abandoned oil and gas wells.

Enabling Statute and All Programs

A. Brief Description of Issue

Program statutes have differing licensing and enforcement provisions.

B. Discussion

The programs regulated by TDLR have varied licensing terms, ranging from one to two years, and enforcement provisions, including complaint filing. Often, these terms are inconsistent with the Department's enabling statute. Examples of different licensing terms are evident in the auctioneer program, which allows for a license with annual renewal, and the Staff Leasing Services Program, which allows for a license with a renewal every two years. In enforcement, some programs require consumers to file a notarized complaint, preventing the Department from accepting a complaint over the phone or via email. These different provisions limit the Department's ability to utilize the inherent efficiencies of economies of scale.

C. Possible Solutions

Make licensing and enforcement provisions uniform across all programs. Allow TDLR to set licensing terms by Rule. Delete all enforcement requirements that conflict or are redundant with the Department's enabling statute or the Administrative Procedures Act.