

VII. Guide to Agency Programs

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

Name of Program or Function	Consumer Protection – General Management and Special Work Assignments Team
Location/Division	William P. Hobby Building, Tower I, 11th Floor
Contact Name	Audrey Selden, Senior Associate Commissioner
Actual Expenditures, FY 2006	\$519,827.11
Number of FTEs as of August 31, 2006	6

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

Consumer Protection (CP) encourages fair treatment of consumers and fosters industry competition by:

- assisting consumers with inquiries and insurance complaints
- educating consumers about insurance and providing information to help them shop for the insurance they need at the best possible price
- reviewing insurance advertisements to prevent distribution of misleading information and to detect possible fraudulent activities
- disseminating timely information about regulatory requirements.

The General Management Section oversees program staff and directs its business operations. The Special Work Assignments Team (SWAT) performs program-wide functions. These include business and strategic planning, performance measure auditing, administration of CP’s automated systems, maintenance of TDI’s consumer web pages, data collection, and coordination of business process improvement projects.

In addition, General Management and SWAT coordinate the agency’s response following a disaster. General Management and SWAT solicit and schedule agency volunteers to assist consumers in impacted areas, make travel and other arrangements for the volunteers, and provide support to staff in the field. CP also leads the Texas State Disaster Coalition (TSDC), a group of state agency, consumer, and industry representatives who work together to provide a smooth and unified response during and after disasters. Additional information about TSDC is available for review.

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

CP was recognized in 1996 with a Greater Austin Quality Award for “commitment to quality.” The Senior Associate Commissioner for Consumer Protection was awarded the Ma Ferguson Award for Excellence in the Public Sector in 1997. In addition, CP has been recognized as a “best practice” model for its consumer information call center, complaints resolution process, and consumer outreach program by the following organizations:

- The Urban Institute, Washington, D.C.
- Florida, Oklahoma, New Mexico, and Pennsylvania Departments of Insurance
- U.S. General Accounting Office
- National Association of Insurance Commissioners
- Texas State Auditor's Office.

TDI participates in the biennial survey of state agency employees, the Survey of Organizational Excellence, conducted by the University of Texas at Austin's School of Social Work. In 2006, CP's scores in every construct increased over the 2004 scores. CP's scores continue to be above both the agency and statewide averages. The biggest increases were in supervisor effectiveness, employment development, strategic orientation, and internal communication. More than one CP activity ranked in the agency "top ten." Survey administrators have twice invited CP's Senior Associate Commissioner to make presentations on management strategies for using survey data. A video of the presentation is available on the survey website at

http://www.utexas.edu/research/cswr/survey/site/practice/forum_cd/Forum2002/tdi.html.

Please see the performance measure charts in each division's Section VII.C response. In addition to performance measures, CP uses input from staff surveys (such as the Survey of Organizational Excellence and other feedback) and from consumer surveys to continually monitor effectiveness and efficiency.

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

1991 - The 72nd Legislature required TDI to help resolve policyholder complaints and maintain data relating to the number of complaints received against an insurer. The legislation also required TDI to publish a complaint ratio for each insurer. The ratio is the number of justified complaints against an insurer expressed as a percentage of the insurer's total number of policies. In addition, the law created specific timelines for prompt payment of first-party claims.

1992 – An agency reorganization resulted in the creation of the Consumer Services Program, which would later be renamed Consumer Protection. The new program contained Complaints Resolution, Information Assistance, Public Education, and Advertising divisions. Long-term care insurance ads were first required to be reviewed.

1994 - CP refined its complaints process to improve quality and efficiency. Changes made to the Complaints Inquiry System (CIS) allowed letter generation to move from overnight batch processing to direct production. Staff also began using keywords to code complaints and began an auditing process to further monitor work quality. CP developed TDI.nfo, an informational database with links to the Texas Insurance Code, agency rules, fact sheets, etc. to enhance staff's ability to provide consistent and accurate responses to consumers. CP created an online complaint form to assist consumers reporting insurance concerns. Consumer publications were placed on the website to allow viewing and download.

1996 – Advertising reviews were first required for viatical settlements (amended to include life settlements in 2001).

1998 – CP began a project to implement a "paperless" complaints process. CP purchased a call monitor system to better evaluate handling of calls to the Consumer Help Line.

1999 – The Legislature enacted provisions to expedite payment by HMOs and issuers of preferred provider benefit plans for "clean claims" submitted by contracted physicians and providers. The

Publication Order Process (POP) database was developed. The database allows staff to enter customer requests for TDI publications into an online form. POP generates a daily report and mailing labels used by TDI Mail Services staff to mail or ship publications to requesters.

2000 – To provide easier access to information about insurance companies, TDI placed its Practice and Claims Company Inquiry (PCCI) application on the agency’s website.

2001 – CP implemented a paperless complaints process. Federal regulation preempted prior filing requirements for most Medicare HMO ads. The Senior Associate Commissioner for CP was appointed by the Commissioner as the Provider Ombudsman to assist health care providers with issues about prompt payment of claims. Additional prompt pay information is available for review. TDI, the Governor’s Division of Emergency Management, and the Institute for Business and Home Safety formed the Texas State Disaster Coalition to assure swift and effective assistance to Texans after a disaster.

2003 – The Legislature enacted provisions to streamline and standardize claim filing and prompt payment processes. The statute also required carriers to provide quarterly provider claims data reports. The legislation and outreach efforts led to a decrease in the number of provider complaints. Internet hits to consumer publications on the website exceeded the number of paper copies distributed for the first time.

2005 – The 79th Legislature required TDI to promote and publicize health coverage options available to Texans through a health coverage awareness program and a website (www.TexasHealthOptions.com).

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

CP affects insurance consumers, companies, and agents. The statistical breakdown is:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

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

General Management comprises the Senior Associate Commissioner and an Executive Assistant. SWAT has a team leader and three staff members. General Management directs CP’s four divisions:

- Complaints Resolution – resolves consumer complaints and returns money to Texans.
- Information Assistance – answers questions about insurance via the toll-free Consumer Help Line.
- Public Education – distributes consumer publications to Texans in print and via TDI’s website, conducts public outreach, and responds to open records requests.
- Advertising Unit – reviews insurance advertisements to assure truth in advertising.

Each division is led by a manager. Staffing among the divisions varies. Please see the divisions’ separate Section VII responses for more information on the individual divisions and their activities.

CP uses a “high tech-high touch” approach to assist consumers, inform the insurance industry, and train staff. Communication is a key management priority. Each division and the program as a whole have regular staff meetings and retreats for information sharing and team-building. Recent division-wide retreats have focused on issues such as change management (“Who Moved My Cheese?”) and a series of customer service videos featuring Seattle’s world-famous Pike Place Fish Market.

CP’s “three-deep” business continuity plan ensures adequate staffing resources by training at least three people to perform all essential job functions. In addition, the program’s “35/5” project allows employees to spend up to five hours per week performing a function other than their normal job duties. Typical 35/5 projects include assisting in another division or TDI work unit, completing a professional certification, or taking training courses. The goal of the 35/5 project is to build team spirit and morale and help prevent job burnout. Although CP has no field offices, the program’s services cover the entire state. The program is piloting a telecommuting project for the agency to determine the viability of allowing staff to work from their homes for one or more days a week. The pilot project will be completed in mid-August.

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

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

One FTE, the HICAP Coordinator, is funded by the federal Centers for Medicare and Medicaid Services (CMS) via a memorandum of understanding between the Department of Aging and Disability Services (DADS) and TDI.

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

There are no other programs that perform the oversight functions of CP’s General Management or SWAT’s support functions. However, several sections within the agency, including Human Resources, Administrative Operations, and Information Technology Services, provide business and resource planning and technology support services similar to or in conjunction with General Management and SWAT.

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

Not applicable.

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

This information is provided for each division's Section VII.J response.

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

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

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

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

Not applicable.

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

Not applicable.

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

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

Not applicable.

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

Not applicable.

VII. Guide to Agency Programs

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

Name of Program or Function	Consumer Protection – Complaints Resolution
Location/Division	William P. Hobby Building, Tower I, 11th Floor
Contact Name	Valerie Brown
Actual Expenditures, FY 2006	\$1,546,889.16
Number of FTEs as of August 31, 2006	37

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

The Complaints Resolution Division helps consumers resolve complaints against their insurance companies and agents. CP's intervention frequently results in monies returned to consumers in additional claims payments or premium refunds. The division resolves complaints about homeowner claims and auto, life, accident, and health insurance (indemnity plans and preferred provider plans). Because these are the most frequent types of consumer complaints, CP's Complaints Resolution Division resolves the majority of complaints submitted to TDI, or about 87 percent.

Over the last five years, the complaints investigated by CP regarding auto, homeowner, accident, and health insurance mostly involved delays in claims handling, unsatisfactory settlement offers, and claims denials. For the same period, life insurance and annuity complaints primarily involved issues related to delays in policyholder service, misrepresentation, and premium refunds.

Complaints Resolution and other TDI staff assist consumers impacted by disasters or other catastrophes. Staff frequently volunteer to assist consumers at Disaster Recovery Centers (DRCs) established by the Federal Emergency Management Agency in presidentially declared disaster areas. While on disaster duty, staff provide information to help minimize property losses, expedite the insurance claims process by contacting companies on behalf of consumers, help resolve complaints, and identify potential industry and consumer fraud.

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

Complaints Resolution's effectiveness is best demonstrated by the number of complaints resolved and the dollar amount returned to consumers. In FY 2006, the division resolved more than 24,000 complaints and returned \$56 million to consumers.

To improve CP's efficiency in processing complaints, the program implemented a "paperless" workflow solution in October 2001. Complaints Resolution has vastly improved its complaints resolution time as a result. In June 2007, the average time to resolve complaints was 34 days, which is less than the target of 38 days. A five-year history follows.

1.2.1. Efficiency 1 – Average Response Time (Days) to Complaints					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	82	56	49	34	33
Annual Target	38	38	55	55	38
Percentage of Target	216%	147%	89%	62%	87%
Analysis/Variance Explanation	In FY 2002, CP began the year with a backlog at the same time the program implemented a paperless complaints workflow and responded to two major disasters. As a result, processing time increased. Since then, CP has coordinated efforts to reduce processing time while delivering excellent customer service. These efforts along with the decrease in complaints received have resulted in shorter processing time.				

In March 2007, the State Auditor’s Office (SAO) audited the “Number of complaints resolved” measure. SAO found no errors in the measure calculation and certified the agency’s complaints resolution processes as sound. In addition, SAO commented that TDI’s complaints workflow system was “state of the art” for state government.

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

Please see history provided in the General Management Section VII.D response.

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

Complaints Resolution affects consumers and the insurance industry. A statistical breakdown is as follows:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

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

Complaints Resolution is administered by the Senior Associate Commissioner for Consumer Protection and the Director of Complaints Resolution. The complaints process flow chart and procedures manual is available for review. Although Complaints Resolution has no field offices, its services cover the entire state.

Complaints Resolution staff focus on claims-related complaints for most insurance lines. The division has two sections, Life, Accident, and Health; and Property and Casualty. Each section has a team leader. Complaints are routed to the appropriate section based on the line of insurance that is the subject of the complaint. Complaints Resolution staff are classified as Administrative Assistants and Insurance Specialists. Each group performs two different sets of tasks.

Administrative staff open, sort, and route incoming complaints to the appropriate section; scan and barcode those that CP will process; forward those that other TDI divisions will process; read the complaints; and then enter them into CIS. Administrative staff generate letters, including acknowledgement letters sent to complainants and requests for information to insurance companies, agents, and other entities.

Insurance Specialists review the complaint and responses from insurers and/or agents, draft appropriate correspondence to complainants and the insurance entities, enter information into CIS, research insurance issues to resolve the complaint, code the complaint as justified or unjustified, and refer potential enforcement matters to TDI's Enforcement Program or the Fraud Unit if warranted. The Director of Complaints Resolution and the Senior Associate Commissioner approve all referrals.

A senior Insurance Specialist audits most complaints before they are closed to make sure the complainant's issues were addressed accurately and thoroughly. The auditor verifies that the specialist entered the proper codes into CIS and then closes the complaint.

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

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

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

Due to the complexity of insurance products, other TDI areas also resolve consumer complaints. The Property and Casualty Program handles complaints about homeowners insurance rates and title insurance; the Life, Health, and Licensing Program's Health and Workers' Compensation Network Certification and Quality Assurance (HWCN) Division handles HMO and workers' compensation network complaints; and the Division of Workers' Compensation's Complaint Resolution Customer Services section handles most workers' compensation complaints.

No external programs provide an insurance complaint resolution service identical to TDI's. Some specific types of complaints are referred to other agencies, however. For example, complaints from state employees about their health care plans are handled by the Employees Retirement System, and complaints about self-funded insurance plans are handled by the U.S. Department of Labor. The Texas Medical Association has a program physicians may use to complain about insurers and HMOs. Some of these complaints may ultimately be referred to TDI. In addition, all licensed companies are required to maintain consumer complaint records.

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

Staff follow written procedures and receive training to assure that complaints are handled by the appropriate program area. Two charts, "SORT for Success" and "Overview of Complaints Processing" that include information about TDI program areas and the types of complaints they handle are available for review. All areas handling complaints follow a consistent process established by an agencywide complaint workgroup. The *High Level Complaint Process Framework* and supporting complaint procedures are also available for review.

CP shares complaint information with the following agencies:

- Texas Department of Banking – monthly letter with copies of complaints involving a financial institution, provided per an MOU.
- Federal Office of the Comptroller of the Currency – monthly letter with copies of complaints involving a financial institution, provided per an MOU.
- National Association of Insurance Commissioners (NAIC) – complaint data for the NAIC's national complaints database. Complaint data regarding Medicare supplement policies is sent to NAIC then forwarded by NAIC to the federal Centers for Medicare and Medicaid Services (CMS).

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

CP shares information with federal and state agencies, such as the Texas Department of Banking and the federal Office of the Comptroller of the Currency. To help Texans prepare for and mitigate disasters, the division also works with the Governor's Division of Emergency Management and the Federal Emergency Management Agency.

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

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

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

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

Not applicable.

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

Not applicable.

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

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

Why the regulation is needed

Complaint resolution is needed to ensure that consumers receive the benefits of their insurance products, to make certain that the industry abides by state laws, and to promote market competition.

The scope of, and procedures for, inspections or audits of regulated entities

The Texas Insurance Code requires TDI to resolve policyholder complaints and to collect and maintain information about complaints against insurers. All resolved complaints are coded as either justified or unjustified. Justified complaints are expressed as a percentage of the total number of insurance policies written by each insurer. The resulting “complaint index” allows consumers to compare companies’ complaint records. In addition, the Texas Insurance Code creates timelines for prompt payment of first-party claims and certain health care claims.

Follow-up activities conducted when noncompliance is identified

CP refers complaints to TDI’s Fraud Unit or Enforcement program if there is suspected fraud or a pattern of practice of noncompliance with insurance statutes and rules.

Sanctions available to the agency to ensure compliance

Based on a review of complaints, TDI’s Enforcement program may take a variety of administrative actions, ranging from a management conference with a carrier to a formal enforcement action or fine. The Fraud Unit handles allegations of fraud, which may result in referral for criminal prosecution.

Procedures for handling consumer/public complaints against regulated entities

Complaints resolution procedures are described in Section VII.F above. Additional information and flowcharts are available for review.

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

Complaints Resolution is primarily responsible for resolving insurance-related complaints involving claims issues. For FY 2006, the Complaints Resolution Division resolved 24,054 complaints, or approximately 87 percent of all complaints resolved by TDI. The remaining 13 percent were handled in other areas of the agency. The following table shows the distribution of resolved complaints by TDI divisions for fiscal years 2002-2006.

Texas Department of Insurance – Complaints Resolved, FY 2002-FY 2006					
Program/Division	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
CP Complaints Resolution	34,364	41,263	29,480	23,582	24,054
CP Advertising	24	31	25	48	68
DWC Complaint Resolution Customer Services	N/A	N/A	N/A	N/A	N/A
DWC Legal & Enforcement	N/A	N/A	N/A	N/A	N/A
Enforcement	1,364	1,349	1,291	1,160	1,223
LHL HWCN	8,465	6,280	3,622	2,422	1,457
P&C Personal Lines	2,725	2,893	1,144	511	366
P&C Commercial Property	152	211	135	122	91
P&C Title	214	294	326	393	368
P&C Workers' Compensation	115	102	82	82	85
Actuarial	1	0	0	0	0
Total	47,424	52,423	36,105	28,320	27,712

CP Complaints Resolution – Complaints Against Regulated Entities					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Number of files received	45,358*	44,502*	33,951	30,084	30,604
Number of complaints resolved	34,364	41,294	29,505	23,630	24,122
Number of complaints dropped/found to be without merit	0	0	0	0	0
Number of complaints pending from prior years	4,839	8,549	4,196	1,754	1,875
Average time to resolve complaints	82 days	56 days	46 days	33 days	33 days

* Number of complaints received spiked in fiscal years 2002 and 2003 as the results of several factors, including increases in disaster-related complaints, health care provider complaints, and mold complaints.

VII. Guide to Agency Programs

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

Name of Program or Function	Consumer Protection – Information Assistance
Location/Division	William P. Hobby Building, Tower I, 11th Floor
Contact Name	John Robinson
Actual Expenditures, FY 2006	\$761,757.40
Number of FTEs as of August 31, 2006	16.1

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

Consumer Protection’s Information Assistance (IA) Division operates TDI’s toll-free Consumer Help Line. Insurance Specialists assist callers with insurance questions and concerns Monday through Friday from 8 a.m. to 5 p.m., Central time, excluding holidays when TDI is closed.

Following a catastrophic event, such as a hurricane, extensive flooding, or a large insurer going out of business, IA often extends its hours to better assist consumers. During hurricanes Katrina and Rita in 2005, for instance, IA staff worked 8 a.m. to 7 p.m., seven days a week. These hours corresponded with the Federal Emergency Management Agency’s hours of operation at its Disaster Recovery Centers (DRCs). IA staff also frequently volunteer to assist consumers in the field at DRCs.

Calls to the Consumer Help Line cover a variety of topics, including general inquiries, complaints about insurance rates, and claim settlement problems. The most common calls are about auto, homeowners, life, and health insurance.

IA has seven bilingual Insurance Specialists to assist Spanish-speaking customers. IA utilizes Language Line Service to assist callers who speak other languages. Language Line provides a translator who joins the call “real-time” to translate between the caller and the IA Insurance Specialist.

IA staff also respond in writing to consumers who mail or e-mail TDI with insurance inquiries.

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

IA performance measure data and management statistics are presented in the following tables. Brief descriptions of process improvements that have enhanced IA’s efficiency and effectiveness are also provided.

1.1.1. Output 1 – Number of Inquiries Answered					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Total inquiries	621,565	671,144	938,084	920,436	995,119
• Telephone calls	317,204	281,076	262,231	240,510	251,611
• Written inquiries	1,408	1,285	1,185	1,238	1,419
• Hits to company profiles (PCCI) on TDI's website	302,953	388,789	672,745	678,693	742,089
Annual Target	350,000	350,000	621,565	621,565	1,000,000
Percentage of Target	178%	192%	151%	148%	99.5%
Analysis/Variance Explanation	From FY 2002 – 2005 performance exceeded the target due to the high number of hits to company profiles on TDI's website. The target was increased in FY 2006 to reflect the high number of Internet hits.				

Management Statistics					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Call capture rate	80%	84%	94%	95%	90%
Average length of call (minutes)	3:31	3:12	2:42	2:35	2:38

Prior to 1999, consumers had to call the Consumer Help Line for company profile information. To provide easier access to this information, TDI placed its Practice and Claims Company Inquiry (PCCI) application on the agency's website. Within two years, the monthly average for PCCI Internet hits was 19,619, and the monthly average of incoming calls was 28,095. By fiscal year 2006, PCCI Internet hits were up to 61,841 per month and call volume was reduced to 20,968 calls per month. This allowed CP to reduce its call center staff accordingly.

Bilingual IA staff assist Spanish-speaking consumers. Previously, all non-English calls were handled using interpreters with Language Line Services. The process improvement allows better service to consumers who speak Spanish and has reduced costs associated with vendor fees.

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

History is provided in Consumer Protection's General Management Section VII.D response.

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

Anyone in the United States can dial TDI's toll-free Consumer Help Line. Most callers are from Texas and are insurance consumers or industry representatives. Following is a statistical breakdown of the customers IA affects:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

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

IA is administered by the Senior Associate Commissioner for Consumer Protection and the Director of Information Assistance. Although IA has no field offices, its services cover the entire state.

To ensure consistent and accurate answers to questions, Insurance Specialists use an information database accessed via TDI's Intranet. TDI.nfo (pronounced TDI Info) includes links to the Texas Insurance Code, agency rules, fact sheets, other online resources, etc. to enhance staff's ability to provide consistent and accurate responses to consumers. Insurance Specialists query TDI.nfo to provide information to callers.

IA staff use the Complaint Inquiry System to provide complaint status to callers. Staff may view documents in the electronic complaint file to answer questions about when an acknowledgement or closing letter was mailed, when the insurer was contacted, and the TDI staff member handling the complaint.

Incoming telephone calls are initially answered through the Octel Voice Information Processing system, the capitol complex system operated by the Department of Information Resources (DIR). Telephone calls are evenly distributed among the staff available to answer calls. DIR provides daily call statistics to IA. IA staff record the type of call answered (auto, homeowner, life, health, etc.) in an Access database. If the caller requests a TDI publication, the insurance specialist enters the order into POP, an electronic publications order system.

Consumer Help Line calls are recorded by a network-based Dictaphone Freedom system. Licensing and Human Resources call centers also use the system to record their calls. In addition, a manager or senior staff member monitors some calls live each day. The manager or senior staff member evaluate an average of eight calls per month per Insurance Specialist. The manager includes these evaluations in Insurance Specialists' annual performance evaluations. The call evaluations also help identify staff training needs.

In December 2004, the Incoming Calls Management Institute (ICMI) and A.C. Nielsen Company of Canada conducted a survey of call center monitoring practices and policies (view the report at <http://www.incoming.com/WebModules/Products/PubDetail.aspx?ProductId=513>). A total of 735 North American call centers participated in the survey. IA's call evaluation practices are in line with the study's major findings:

- The majority of call centers (93 percent) reported monitoring calls.
- The number of calls monitored per person ranged from one a month to 10 or more a month.
- The largest percentage (33.8 percent) of call centers monitored four or five calls per month per person.

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

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

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

The Licensing Division, Division of Workers Compensation (DWC), and Human Resources (HR) have call centers that perform services similar to IA. Licensing operators assist the more than 300,000 Texas agents and adjusters who have questions about their insurance licenses. The DWC call centers assist injured employees and other workers' compensation system participants. The HR call center is the agency's switchboard and routes calls to staff. IA answers consumers' questions about insurance. TDI has these additional toll-free numbers:

Name	Number	Notes
TDI Main Switchboard	800-578-4677	Staffed during business hours by Human Resources
TDI Job Line	800-952-7099	Recorded message regarding current job information
Arson Hotline – to report suspicious activity	877-434-7345	Staffed 24 hours a day by State Fire Marshal's Office
DWC Complaint Resolution Customer Service Hotline	800-372-7713	Staffed during business hours by DWC
DWC Safety Violations Hotline – to report safety violations	800-452-9595	Staffed during business hours by DWC
DWC TXCOMP Technical Help Line – to get assistance with WC claims, proof of coverage, medical claim electronic data transmission, system access, Approved Doctor List training	888-489-2667	Staffed during business hours by DWC
DWC - Workers' Compensation Injured Employee Hotline	800-252-7031	Staffed during business hours – calls are routed to the closest DWC field office
DWC Workplace Safety - Occupational Health and Safety Hotline– to get information about occupational health and safety	800-687-7080	Staffed during business hours by DWC
Fraud Hotline – report consumer and industry fraud	888-327-8818	Staffed during business hours by Fraud
Help Insure Hotline – for consumers seeking auto and homeowners insurance	866-695-6873	Staffed during business hours by P&C
Independent Review Organization, WC Networks, and URA Hotline	866-554-4926	Staffed during business hours by Health & Workers' Compensation Network
Publications Order Line – to order a publication	800-599-7467	Automated order line
Windstorm Inspections – to request an inspection	800-248-6032	Staffed during business hours by P&C Windstorm

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

CP convened the Phone Transfer Policy Team (PT²), which included call center staff from all TDI divisions, to discuss issues related to the intra-agency transfer of calls. The team met quarterly to coordinate call transfer procedures and to share customer service improvement tips and resources. Agency call center managers currently meet as needed to update training information and share resources.

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

Not applicable.

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

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

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

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

Not applicable.

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

Not applicable.

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

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

Not applicable.

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

Not applicable.

VII. Guide to Agency Programs

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

Name of Program or Function	Consumer Protection – Public Education
Location/Division	William P. Hobby Building, 333 Tower I, 11th Floor
Contact Name	Richard Lee
Actual Expenditures, FY 2006	\$554,956.12
Number of FTEs as of August 31, 2006	9

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

The Public Education (PE) Division develops and provides Texas consumers with accurate and timely information, enabling them to make informed decisions about the insurance products they need. Division staff write, edit, and distribute more than 45 consumer publications. PE also coordinates the agency’s Speakers Bureau and conducts outreach.

In addition, PE administers a special program for Texas seniors called the Health Information, Counseling, and Advocacy Program (HICAP). PE also coordinates CP’s responses to requests for information made in accordance with the Texas Public Information Act. Descriptions of the division’s primary activities follow.

Publications

PE and agency staff review publications for accuracy and relevance at least once a year. The review process generally consists of three phases: initial review, team review, and executive review. The team review includes technical and subject-matter experts in appropriate TDI program areas. The executive review includes TDI executive-level staff, the Public Information Office, and the Office of Public Insurance Counsel.

TDI produces rate guides and price comparisons for six types of insurance: auto, homeowners, Medicare supplement, long-term care, workers’ compensation, and small employer health plans. Price comparisons and rate guides require data collection from companies. CP’s Special Work Assignments Team in coordination with PE collects data for the rate guides. The Workers’ Compensation Classification and Premium Calculation Division collects data for and publishes the workers’ compensation rate guide.

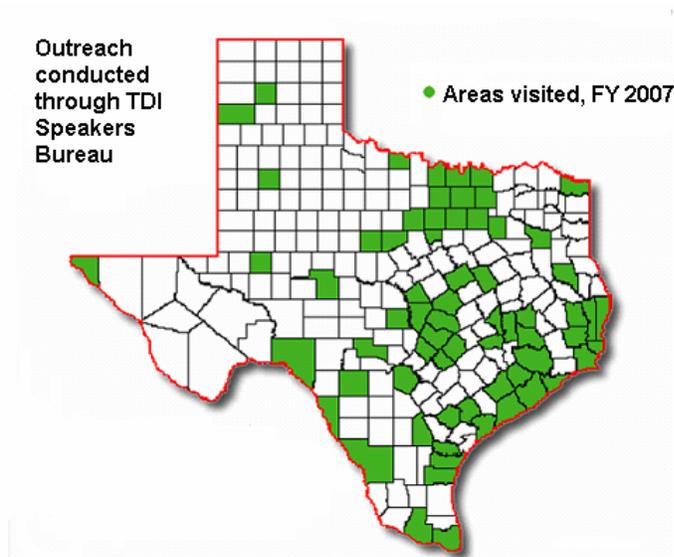
PE staff distribute publications at outreach events and to consumers on request. Consumers may order publications 24 hours a day, seven days a week, by calling CP’s automated order line. Consumers may view and download consumer-related information, including publications, from the TDI website. Internet hits to publications count toward the distribution performance measure. In addition to publications, the division maintains several “web resource pages” on insurance topics, such as seniors insurance issues, shopping for insurance, and disaster preparedness. Resource pages and publications may be accessed from the Consumer page on the TDI website, <http://www.tdi.state.tx.us/consumer/index.html>.

Outreach and Speakers Bureau

PE conducts public outreach on request, in partnership with numerous organizations, and to certain “target” audiences. The division provides targeted outreach in response to legislative or regulatory priorities or agency initiatives. In recent years the division has targeted outreach toward:

- senior audiences (the Medicare prescription drug program, insurance fraud, and long-term care insurance)
- Texans in the military (life insurance sales and general insurance)
- parents of uninsured children
- Texans with disabilities
- minority audiences.

Additional information about targeted outreach to Texans in the military and seniors is available for review. Targeted outreach is also conducted in specific areas of the state following disasters or market changes such as company withdrawals, company insolvencies, or policy nonrenewals.



The Speakers Bureau Coordinator processes most requests for speakers from external groups. The appropriate Commissioner’s office handles requests for speeches by the Commissioner of Insurance or the Commissioner of Workers’ Compensation. The Public Information Office coordinates media requests for interviews with TDI staff. The measure methodology counts media interviews as outreach events.

CP regularly provides information to consumers via mass mail and e-mail. The program maintains mailing lists and e-mail lists of consumer advocacy groups, business and industry groups, state agency contacts, Texas military bases, and public libraries.

HICAP

The Health Information, Counseling, and Advocacy Program, or HICAP, is a federally funded program to assist older Texans. TDI is one of three Texas agencies implementing the program. Other program partners are the Texas Department of Aging and Disabilities Services (DADS) and the Texas Legal Services Center. HICAP provides information about both public benefits and private health insurance. This is accomplished with the cooperation of the 28 Area Agencies on Aging offices (AAAs), which provide one-on-one counseling to assist older and disabled Texans in or near their town of residence.

Management Statistics - HICAP Program					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Number of presentations conducted	33	34	27	38	50
Number of trainings conducted	11	5	10	13	19
Number of Spanish presentations	7	7	7	8	19
Number of Benefits Counselors certified	456	341	349	380	425
Number of senior-related publications distributed	90,132	95,603	98,135	98,138	113,029

Open Records

TDI's Agency Counsel Division oversees the agency's open records function. PE staff respond to open records requests for information in consumer complaint files. CP staff receive and enter requests into an automated tracking system; redact information deemed to be confidential by state law, common law standard, and Attorney General opinion; and then provide the information to the requestor. Confidential information is removed from paper documents using a black marker and then photocopied before the files are provided to the requestor. Before releasing the requested information, all documents provided for an open records request are proofread by a staff member who did not perform the original redaction. PE processes a majority of the Open Records requests received by the agency.

Management Statistics - Open Records Requests					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Number of requests processed by PE	603	718	745	530	652
Number of pages redacted	85,454	100,658	110,411	110,758	116,190

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

PE has consistently met performance measures for the past five years.

1.1.1. Output 2 – Number of Rate Guides Distributed					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	652,743	832,112	756,162	861,235	941,074
Annual Target	600,000	600,000	652,743	652,743	652,743
Percentage of Target	109%	137%	116%	132%	144%
Analysis/Variance Explanation	Rate guides are distributed on request through the Consumer Help Line, via partnerships with county Tax Assessor-Collectors, and on TDI's website. Overall performance has exceeded the target, though demand may fluctuate from year to year.				

1.1.1. Output 3 - Number of Consumer Information Publications Distributed					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	2,216,617	2,763,216	3,343,753	3,079,365	3,579,147
Annual Target	2,000,000	2,000,000	2,200,000	2,200,000	3,200,000
Percentage of Target	111%	138%	152%	140%	112%
Analysis/Variance Explanation	Consumer demand for TDI publications, especially on TDI's website, has increased and the target has been exceeded each year.				

1.1.1. Output 4 - Number of Consumer Information Presentations					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	574	545	561	542	647
Annual Target	500	500	500	500	540
Percentage of Target	115%	109%	112%	108%	120%
Analysis/Variance Explanation	TDI's Speakers Bureau coordinates requests for TDI speakers. Each year performance has exceeded the measure due to the high number of requests and ongoing partnerships with a variety of organizations and agencies.				

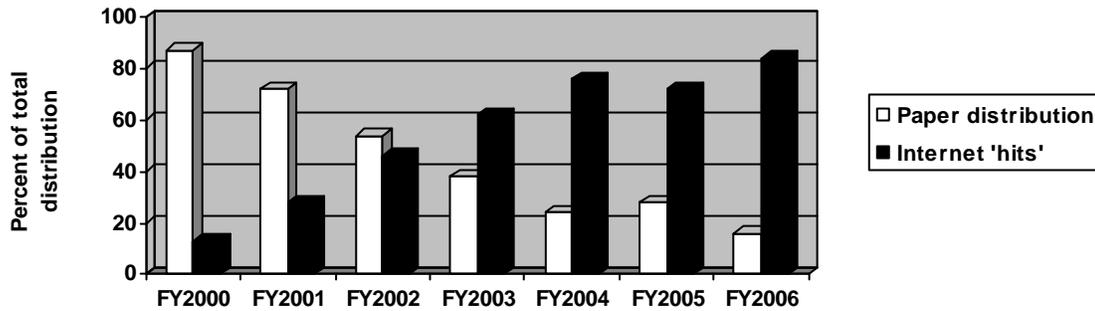
1.1.1. Efficiency 1 – Average Cost per Rate Guide					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	33 cents	19 cents	16 cents	11 cents	10 cents
Annual Target	60 cents	60 cents	50 cents	50 cents	20 cents
Percentage of Target	55%	31%	32%	22%	50%
Analysis/Variance Explanation	The average cost per rate guide is a companion to the "number of rate guides distributed." Due to the high number of rate guides distributed via Internet hits and the low cost to distribute rate guides via TDI's partnership with the county Tax Assessor-Collectors offices, the cost per rate guide has decreased year to year.				

In addition, the Public Education section has received numerous awards since 2000:

- The Consumer Federation of America rated the quality and quantity of consumer information provided by TDI among the best in the nation (2000). TDI was one of only seven states receiving an "A" grade.
- The Centers for Medicare and Medicaid Services (CMS) recognized the HICAP program with a national award for its outstanding work in public outreach (2000).
- The HICAP program earned certificates of appreciation for its work with Texas seniors and retirees from the Department of Defense (2000); the Area Agency on Aging (AAA) of the Golden Crescent (2000); CMS (2001); the Texas Medical Foundation (2003 and 2005); and CMS Region VI Office (2006).
- The Middle Rio Grande AAA presented its Together We Can award to the HICAP program for outstanding support to Texas seniors (2003).

- CP’s consumer outreach efforts have earned certificates of appreciation from the Governor’s Department of Emergency Management for assisting consumers following disasters (2001 and 2004); the City of Austin (2004, 2005, and 2006); the Austin Police Department (2005); Fort Sam Houston for outreach to Texans in the military (2005 and 2006); Fort Hood for outreach to Texans in the military (2005 and 2006); the American Heart Association (2005 and 2006); and the Association of Texas Tax Collector-Assessors for our cooperative program to provide information and assistance to Texas consumers (2006 and 2007).

**Publication Distribution - Paper Distribution vs. Internet Hits
FY 2000 - FY 2006**



Other evidence of efficiency includes increased hits to TDI’s website for educational and outreach information. Hits to publications on the agency’s website are the key drivers to successfully achieving three of PE’s four performance measures: publications distributed, rate guides distributed, and average cost of a rate guide.

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

History is provided in Consumer Protection’s General Management Section VII.D response.

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

PE staff provide information to the public. The division conducts special outreach programs to senior Texans, Texans with disabilities, Texans in the military, minority Texans, and parents of uninsured children. Following is a statistical breakdown:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

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

Public Education is administered by the Senior Associate Commissioner for Consumer Protection and the Director of Public Education. The procedures manual is available for review. Although PE has no field offices, its services cover the entire state.

The division has nine FTEs. Primary job functions are broken down as follows: program management (one), consumer outreach (three), HICAP (one), publication writing and editing (one), and open records (three). In addition to their primary job functions, staff also assist with disaster outreach, publication distribution, coordination of the agency's Speakers Bureau, legislative bill review and analysis, and special projects.

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

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

The HICAP program is funded by a grant from the Centers for Medicare and Medicaid Services (CMS) to the Department of Aging and Disabilities Services (DADS). DADS contracts with TDI via an interagency contract.

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

TDI's PIO section also provides information to the public, although its focus is primarily on the media rather than to consumers and the general public.

The State Fire Marshal's Office (SFMO) conducts outreach and produces various publications. SFMO's function is primarily to work with local firefighting units.

TDI's Division of Workers' Compensation conducts outreach for employers regarding workplace health and safety and return to work.

The Office of the Public Insurance Counsel (OPIC) publishes some consumer information on its website. OPIC is statutorily required to publish a "Report Card" on Texas HMOs.

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

A rider to the General Appropriations Act, 2006-2007, requires TDI to contract with OPIC to provide consumer information. As a result, OPIC participates in the review process for TDI consumer publications, helps develop certain outreach strategies, and assists with disaster outreach.

SFMO publications and outreach are targeted at fire prevention and other fire awareness topics, and are counted in separate performance measures. There is no duplication of effort with PE.

CP's HICAP Coordinator position is funded by a grant from CMS through an interagency contract with DADS. The HICAP coordinator provides targeted outreach to Texas seniors in partnership with DADS and other CMS grant recipients. To avoid duplication of efforts, the agreement specifies the activities and deliverables to be accomplished by the HICAP Coordinator.

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

PE works with the following agencies and governmental units:

- Tax Assessor-Collector offices in most Texas counties: Distribute auto and homeowner price comparisons and other publications in county offices.
- Texas Workforce Commission (TWC): CP exhibits at TWC's Texas Business Conference.
- Texas Department of Aging and Disability Services (DADS): CP's HICAP program is funded through an interagency contract with DADS.
- Area Agencies on Aging (AAA): CP trains benefits counselors, provides insurance information, and provides other support for the 28 AAAs in Texas.
- Texas Health and Human Services Commission (HHSC): TDI is a partner with HHSC and other entities in the Long-Term Care Partnership to provide information and training about long-term care insurance.
- Austin Police Department and Travis County Sheriff's Office: Distribute auto and homeowner insurance information at outreach events held in towns throughout Central Texas.
- Capital Area Metropolitan Planning Organization: Distribute insurance information at Capitol Metro fairs in the Austin metropolitan area.
- Other state agencies: Distribute information at summer health insurance enrollment fairs.
- Austin Children's Hospital and Seton Healthcare network: PE exhibits at mobile health van events for uninsured schoolchildren in the Austin area.
- Travis County Health and Human Services Department: Distribute information to uninsured residents via a mobile health van.
- Financial Literacy Coalition of Central Texas: Distribute insurance-related information to Texans.
- Texas public libraries: Distribute insurance-related information and publications via mass mailings.
- Texas military bases: Distribute information and publications regarding insurance issues pertinent to service members via mass mailings and outreach events.
- City, county, emergency management, and elected officials' offices: Distribute information and publications regarding assistance with insurance questions and claims during a disaster response.

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

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

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

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

Not applicable.

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

Not applicable.

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

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

Not applicable.

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

Not applicable.

VII. Guide to Agency Programs

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

Name of Program or Function	Consumer Protection – Advertising Unit
Location/Division	William P. Hobby Building, Tower I, 11th Floor
Contact Name	Jack Evins
Actual Expenditures, FY 2006	\$284,584.34
Number of FTEs as of August 31, 2006	6

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

The Advertising Unit protects the public and promotes accuracy in advertising by reviewing insurance advertisements. In general, an “advertisement” is any prepared communication intended to promote name identification of a licensee or to generate interest in insurance or other regulated products. Staff review insurance ads to ensure that they are compliant with the law and agency rules and to detect possible fraud and unauthorized activities. Additionally, the Advertising Unit proactively selects insurance industry websites for review. These reviews ensure that companies are not inappropriately using unfiled required ads on their websites and also help detect potentially false and misleading statements. Approximately 24 percent of the ads reviewed in FY 2006 were proactively reviewed Internet ads.

The Advertising Unit monitors marketing trends to identify potential “scams.” It helps create and maintain a level playing field in the industry, thus promoting fair competition.

The Advertising Unit receives a small number of complaints annually (68 complaints closed in FY 2006). Most complaints are submitted by carriers or agents questioning the compliance of a competitor’s advertisements; less frequently, consumers complain of advertising they believe to be false or deceptive.

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

The Advertising Unit has exceeded its performance measure for the past five years.

1.2.1. Output 2 - Number of Insurance Advertising Filings Reviewed					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Actual Performance	6,028	6,160	6,400	6,065	6,062
• Required ads	3,659	2,986	4,332	3,612	2,997
• Non-required ads	2,369	3,174	2,068	2,453	3,065
Annual Target	6,000	6,000	6,000	6,000	6,000
Percentage of Target	100.5%	102.67%	106.67%	101.08%	101.03%
Analysis/Variance Explanation	N/A				

Management Statistics					
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Number of forms with compliance issues (objections)	3,773	3,415	3,575	3,415	4,142
Average time (in days) to review advertising					
• Required ads	24.81	27.09	29.18	20.75	24.30
• Nonrequired ads	20.29	19.33	10.45	24.49	23.27
• Total	23.14	24.64	20.11	22.23	23.80
Number of companies submitting ads					
• Required ads	101	89	89	82	71
• Nonrequired ads	151	121	84	41	32
• Total	252	210	173	123	103
Number of files referred to Enforcement	6	7	4	10	10

Required = Ads that are required to be filed with TDI before they may be used.

Nonrequired = Ads that are not required to be filed with TDI before they may be used.

Some violations detected by the Advertising Unit have resulted in consent orders and fines paid by insurers and agents. In addition, the unit has provided information to the Office of the Texas Attorney General (OAG) to support cases that led to cease and desist orders against deceptively marketed discount health care programs.

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

History is provided in Consumer Protection’s General Management Section VII.D response.

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

Advertising regulation affects the insurance industry and consumers. Statistical breakdown is as follows:

- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses
- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas).

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

The Advertising Unit is administered by the Senior Associate Commissioner for Consumer Protection and the Director of Advertising. The Advertising Review Flow Chart is available for review. The unit has no field offices, but its services cover the entire state. Following is a summary of the advertising review process:

- Each piece of advertising is date-stamped and logged into an Oracle database tracking system, which assigns a Filing ID number to each submission.
- An Insurance Specialist reads the advertisement for content; context; prominence and position of required disclosures; omissions of required information; and violations of statutes, regulations, policy provisions, and licensing requirements. To help insurers, these requirements are summarized in detailed guidelines in the “Advertising Workbook” for the industry and available at <http://www.tdi.state.tx.us/consumer/documents/advworkbook04.doc>.
- The specialist may review the outline of coverage or policy form to compare the contractual benefits to the advertising language. Because most insurance policy forms are imaged, a specialist can usually query the policy form tracking systems (PATK and TRACK) and view the form online from the computer desktop.
- If no problems are found with the advertisement, the specialist sends a letter to the submitter by e-mail or fax, if possible, or otherwise by mail, noting the findings.
- If the specialist identifies a problem with the advertisement, he or she prepares a detailed letter with reasons for objections to specific content and citations to the TAC or the TIC. The specialist e-mails or faxes the letter to the submitter, if possible, or otherwise mails it. If an advertisement raises more serious or complex issues, the specialist may request additional information or, if the ad is in circulation, request that the company or agent voluntarily discontinue the ad.
- During the course of a review, a specialist may consult with staff in the Life, Health, and Licensing; Property and Casualty; Legal Services; or Enforcement programs to complete the review.
- The Advertising Director or a senior Insurance Specialist reviews each completed ad review. The auditor reviews the specialist’s findings, reads the correspondence for clarity and accuracy, and follows up with staff as necessary.
- If staff determine an ad should be referred to Enforcement or Fraud, the staff member drafts a referral, which is approved by the Advertising Director and Senior Associate Commissioner.

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

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

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

TDI has no identical function to the Advertising Unit’s reviews. TDI Market Conduct examiners may identify noncompliant advertising; however, they would generally be looking at advertising in use, rather than material proposed for use. The form approval function conducted by Life, Health, and Licensing and Property and Casualty is similar to the advertising review function. Advertising interacts with Enforcement regarding cases opened from referrals. Occasionally, advertising issues arise on cases initially referred from other programs, and Enforcement or Fraud requests the Advertising Unit to review ads in question.

In late 2007, the Interstate Compact Insurance Regulation Commission may provide a centralized filing and review option for long-term care insurers in participating states (including Texas). Ads that pass the Commission's review will not need to be filed for prior review in Texas. The National Association of Securities Dealers (NASD) has jurisdiction over prospectuses promoting variable annuity products. The OAG also may take action regarding material that violates the Deceptive Trade Practices Act (Business and Commerce Code, Chapter 17). The federal Centers for Medicare and Medicaid Services reviews Medicare Advantage products.

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

Advertising participates in an MOU between TDI, the Texas Funeral Services Commission, and the Texas Department of Banking regarding prepaid funeral service contracts. Life, Health, and Licensing staff coordinate the MOU, and the agency participants meet annually.

Advertising; Life, Health, and Licensing; and Property and Casualty staff interact regularly to coordinate reviews of policy forms, endorsements, outlines of coverage, and advertisements.

When Advertising staff identify apparent patterns of violation or unauthorized activities, they interact with the Legal Services, Enforcement, and Fraud programs, and with the OAG.

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

The Advertising Unit works with the following agencies:

- CMS regarding Medicare-related products
- the OAG regarding lead card advertising and discount health care services programs
- State Securities Board regarding the sale of variable annuities
- Texas Funeral Services Commission and Texas Department of Banking regarding prepaid funeral services contracts.

The principal nature of these dealings is exchange of information. This may include referrals of complaints from one agency to another, as appropriate.

The Advertising Unit also interacts with staff in other state departments of insurance to compare advertising review requirements.

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

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

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

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

Not applicable.

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

In late 2006, TDI hosted meetings of the Advertising Workgroup. The group, which included industry representatives and the Office of Public Insurance Counsel, discussed opportunities to improve advertising regulation. Many recommendations were contained in HB 2251 and HB 2252 enacted by the 80th Legislature.

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

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

Why the regulation is needed

Regulation of insurance advertising promotes competition and protects consumers. In addition, federal law mandates that states require Medicare supplement insurance ads to be filed for review or approval.

TDI rules require advertising for long-term care insurance and viatical and life settlements to be filed for review. These requirements are imposed to monitor the marketing of complex products and to protect particularly vulnerable consumers.

The scope of, and procedures for, inspections or audits of regulated entities

All advertising is subject to basic requirements, per Texas Insurance Code, Chapter 541, and Texas Administrative Code, Chapter 21. TDI rules establish additional requirements for health and accident insurance, Medicare supplement insurance, Medicare cost HMOs, long-term care insurance, life and annuity advertising, and viatical and life settlement ads.

Advertising staff must complete reviews of Medicare supplement, Medicare cost, and long-term care insurance advertising before the applicable deadline. If an advertising review is not completed before the deadline, the carrier may consider the ad to be “deemed” acceptable.

Advertising staff review websites of insurers with significant market shares in personal lines of insurance and those with ads that are the subject of a complaint. Occasionally, another TDI program may request that a carrier submit all of a certain class of “nonrequired” advertising to TDI for review.

Follow-up activities conducted when noncompliance is identified

In reviews of advertising filed prior to use, staff prepare and send a letter with reasons for objections and citations to the law and agency rules. The responsible party would then have to make modifications and resubmit the ad to receive a “no objection” letter indicating that the material is acceptable.

In reviews of noncompliant advertising already in use, staff will again send the responsible party a detailed letter noting objections and require the responsible party to confirm its remedial actions within a reasonable time frame.

An ad may be referred to TDI’s Fraud or Enforcement program if:

- staff detect possible fraud or evidence of actual damages to consumers or competitors
- the party responsible commits a pattern of violations
- the party responsible fails to remedy noncompliant advertising.

Sanctions available to the agency to ensure compliance

The administrative penalties available under Texas Insurance Code, Chapter 84, may be applied to entities regulated by TDI. Cease and desist orders may also be applied, particularly when an unauthorized activity is involved. These actions are pursued by TDI’s Enforcement program.

Procedures for handling consumer/public complaints against regulated entities

Complaints about insurance advertising will result in a review of the ad. An acknowledgment of receipt of the complaint is sent to the complainant. A closing letter is also sent to the complainant summarizing the results of the review, including whether violations were noted and, if so, what actions were taken.

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

The Advertising Unit resolved 68 complaints during FY 2006, as noted in the CP Complaint Resolution Section VII.O agency complaint resolution table.