

VII. Guide to Agency Programs

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

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|--------------------------------------|---|
| Name of Program or Function | Property & Casualty Program, General Management |
| Location/Division | William P. Hobby Building, Tower I, 5th Floor |
| Contact Name | CH Mah, Senior Associate Commissioner |
| Actual Expenditures, FY 2006 | \$350,100.66 |
| Number of FTEs as of August 31, 2006 | 5 |

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

The Property & Casualty (P&C) Program monitors a wide range of property and casualty insurance lines; reviews form and rate filings; explores ways of cutting insurance costs by reducing losses; reviews and analyzes statistical data; and prepares reports on insurance rates and markets to assist policy makers and consumers with insurance-related decisions. P&C comprises the following areas:

- General Management Section
- Personal and Commercial Lines Division
- Inspections Division
- Title Division
- WC Classification and Premium Calculation Division
- Property & Casualty Actuarial Division
- Data Services Division.

Each division of the P&C Program is discussed in detail in a separate Section VII response. General Management's Section VII response addresses program-wide activities and items specific to general management.

P&C's objective is to:

- ensure qualified review of market data and filings for the various property and casualty lines of insurance and products to promote rates and forms that are in compliance with applicable laws that are not excessive, inadequate or unfairly discriminatory;
- perform accurate, cost-effective data collection and analysis to promote competitive markets and informed decisions by policy makers and consumers while educating consumers and the industry on compliance requirements;
- promote loss mitigation efforts to ensure the people of Texas a viable and competitive market where insurance is both available and affordable; and
- establish mechanisms to help consumers attain access to standard and preferred personal and commercial lines markets.

The P&C staff philosophy is to fulfill these objectives by:

- maintaining strict standards for data accuracy and reliability, as the quality of raw data will dictate the quality of the work product;
- providing consistent and accurate information and service to customers in a prompt, respectful

- and courteous manner;
- providing highly-qualified review and analysis of forms, rates and data, so that regulatory decisions and policies relating to property and casualty products may be made with confidence;
 - carefully balancing timeliness, efficiency and cost-effectiveness, remembering that in order to be of service to the state and its citizens, staff must be responsible in the use of resources;
 - treating all fellow workers, both inside and outside the program, with the highest degree of professionalism, courtesy and cooperation;
 - continually improving skills and knowledge, recognizing that the P&C Program cannot effectively monitor or regulate the industry if it fails to develop itself professionally to keep pace with the industry and the public;
 - using innovative processes and exploring changing technology to perform functions in order to help the agency lead the industry in the most positive and productive direction.

The following paragraphs outline key functions of P&C and how the program contributes to TDI-funded goals and strategies.

Strategy 1.1.1 Consumer Education and Market Analysis

P&C conducts in-depth analyses of the Texas insurance market and performs special studies to assist the agency, policy makers, and the public. In addition to data collected in TDI's statistical plans, P&C Actuarial staff use data calls and information requests to prepare market analysis and to provide answers to a variety of questions related to the marketplace. Monitoring the marketplace is a statutory duty.

Personal and Commercial Lines Division staff maintain various resources for consumers on the TDI website. These resources are designed to educate consumers on various personal and commercial lines of insurance as well as provide assistance when shopping for insurance. Examples include: Helpinsure.com; Bond Resources; Medical Malpractice Insurance Shopping Guide; Frequently Asked Questions related to property and casualty insurance; and various information describing different types of insurance such as mortgage guaranty insurance.

Personal and Commercial Lines Division staff also make presentations to various consumer, charity, civic and trade groups on topics such as homeowners, renters, commercial property, automobile insurance, and medical professional liability insurance.

Strategy 1.1.2 Rates, Forms, and Licenses

The Texas Insurance Code, Chapters 2501-2704, provide that title insurance shall be 'completely regulated' to protect consumers and provide a reasonable rate of return to companies and agents.

The Title Division assists with the following statutory duties:

- defining the requirements of abstract plants
- prohibiting rebates
- working with the Texas Title Insurance Guaranty Association
- processing applications for title agent and escrow officer licenses, renewals, cancellations, disciplinary actions, and revocations
- promulgating rules, rates and forms
- conducting field audits of title agent records
- processing consumer complaints and industry inquiries.

The P&C Actuarial Division provides actuarial review of rate and rating plan filings and credit score models (Texas Insurance Code, Chapters 2251 and 559, respectively).

Prior approval of individual insurer filings of policy forms and endorsements is required pursuant to Texas Insurance Code, Chapter 2301. Staff in the Personal and Commercial Lines Division review policy forms and endorsements for compliance with statutory and/or rule requirements and verify that the filings do not contain provisions, titles, or headings which are unjust, encourage misrepresentation, are deceptive, or violate public policy. The prior approval system for policy forms and endorsements enables TDI staff to ensure that there is no potential harm to consumers when the policy forms and endorsements are introduced in the marketplace.

Strategy 1.1.3 Promote Underserved Coverages

The promotion of underserved markets includes the improvement of availability for residential property and private passenger automobile coverage by identifying underserved markets through monitoring the marketplace and marketplace analysis. In addition to gathering and analyzing residential property and private passenger automobile coverage data, TDI has statutory requirements related to the identification of underserved areas.

- *Residential Property Insurance*

Texas Insurance Code, Chapter 2211, includes a provision for the commissioner of insurance to designate underserved areas for eligibility to the Fair Access to Insurance Requirements (FAIR) Plan Association. The FAIR Plan Association is an entity that provides residential property insurance to qualified consumers who are having difficulty obtaining residential property coverage from licensed insurance companies. Additionally, TDI maintains a website, HelpInsure.com, which allows homeowners having difficulty finding coverage to post information for companies and agents providing coverage in their area.

- *Private Passenger Automobile Insurance*

Texas Insurance Code, Chapter 2151, requires TDI to identify underserved areas for automobile coverage and requires the insurer of last resort, the Texas Automobile Insurance Plan Association (TAIPA), to offer incentives for insurers to offer coverage in underserved areas. TAIPA was created by the enactment of House Bill (HB) 1461, 73rd Legislature, Regular Session, effective September 1, 1993. TAIPA provides for the assignment of insurance to an authorized insurer for a person required by the Texas Transportation Code to show proof of financial responsibility.

- *Windstorm Insurance*

The agency addresses insurance market availability for wind and hail insurance through the Texas Windstorm Insurance Association (TWIA). TWIA was established by the Legislature in 1971 to provide wind and hail coverage to residents and businesses in designated catastrophe areas that are unable to obtain such coverage in the voluntary market (Texas Insurance Code, Chapter 2210).

- *Medical Professional Liability Insurance*

The agency addresses insurance market availability for medical professional liability insurance through the Texas Medical Liability Insurance Underwriting Association (JUA). The JUA was established by the Legislature in 1975 to insure physicians and other eligible health care providers who are unable to obtain such coverage in the voluntary market (Texas Insurance Code, Chapter 2203).

Strategy 1.2.1 Resolve Complaints; Strategy 1.2.2 Investigation and Enforcement

These two strategies are concerned with complaints, recovering valid claims for consumers, and reviewing questionable trade practices. Five agency programs: Consumer Protection (CP); Fraud Unit; Enforcement; Life, Health, and Licensing (LHL); and P&C work together to accomplish strategic goals and measures. CP resolves complaints, the Fraud Unit investigates allegations of fraud such as those arising from complaints, and the Enforcement Program enforces rules and takes action against violators. These programs, together with divisions within the P&C Program and the LHL Program, respond to complaints, assist consumers in recovering valid claims, investigate patterns of questionable trade practices, and bring enforcement actions as appropriate.

Strategy 3.1.1 Loss Control Programs

This strategy specifically addresses the need to find methods to reduce claims against insurers through reduced losses, resulting in lower premiums for consumers. It should be noted that TDI's role in reducing losses is primarily oversight responsibilities to ensure compliance with effective risk control practices such as reviewing insurers' loss control programs or compliance with wind resistant building codes. In general, there are four areas of loss control that are monitored by the agency:

- commercial lines
- commercial property oversight
- amusement rides
- windstorm protection.

The agency reviews insurer required loss control programs for certain commercial lines of insurance, reviews fire rating risk classifications for commercial property, oversees inspection and insurance requirements for amusement rides, and issues certificates of compliance for wind resistant structures in coastal areas. P&C's Windstorm Inspections Section issues certificates of compliance, which are an eligibility requirement for wind and hail coverage with TWIA and are designed to mitigate potential losses.

The strategy also includes loss control inspections performed by TDI. These inspections evaluate the insurance companies' loss control programs, which insurers establish to aid commercial policyholders in reducing losses. Mergers and acquisitions within the industry also affect this activity. As smaller companies are merged with existing groups, the loss control program used by the parent group is usually adopted. As larger insurance companies tend to have more sophisticated, effective loss control programs, mergers tend to result in policyholders having access to more effective loss control programs that may result in reduced losses for the policyholder and reduced claims against the insurer.

A related loss control issue is P&C's oversight of commercial property inspections by the Insurance Services Office (ISO) to set commercial property risk classifications which affect policyholders' premiums. The agency provides oversight to ensure that commercial property owners receive the appropriate risk classification for their properties, which relates to a variety of issues, including construction materials and safety measures such as sprinklers and hazards associated with the use of the property. While oversight of commercial inspections does not directly impact potential losses, it ensures that commercial property owners' rates accurately reflect risk, providing an economic incentive for the property owners to implement policies and procedures to lower that risk.

TDI has limited authority over the regulation of amusement rides. The agency is authorized to review the inspections and certificates of inspection held by ride operators. The enforcement of amusement ride inspections and insurance requirements rests with law enforcement authorities.

A major activity performed by P&C is responding to open records requests. In FY 2006, P&C divisions processed 2,302 open records requests representing 34 percent of all open records requests processed by TDI and the Division of Workers' Compensation (DWC).

General Management Section

Led by a Senior Associate Commissioner, the P&C General Management Section provides program-wide management and operational support, including strategic and budget planning; responses to legislative requests; research assistance, including Geographic Information System (GIS) mapping and demographic analysis; project management; and administrative support including report and presentation preparation for the program and agency.

In addition, General Management is responsible for the production of the Community Investment Report, a biennial report mandated by Texas Insurance Code, Section 425.107. All foreign and domestic life and health insurers with \$10 million or more of written premium are required to report Texas-only investments in real estate, commercial mortgages, residential mortgages and development bonds, and have the option to report on investments in Texas through federal agencies such as the Federal Housing Administration (FHA), Texas corporate stocks and bonds, deposits in Texas financial institutions, and contributions and other social investment programs. The General Management Section is responsible for issuing the data call, compiling and analyzing the responsive data, and producing the report prior to each Legislative Session.

General Management also oversees the implementation of Senate Bill (SB) 1670, the motor vehicle financial responsibility verification program established by the 79th Legislature, Regular Session. Texas Transportation Code, Section 601.452 provides that TDI, in consultation with the Texas Department of Public Safety (DPS), the Texas Department of Transportation (TxDOT) and the Texas Department of Information Resources (DIR) "shall establish a program for verification of whether owners of motor vehicles have established financial responsibility." The agency, in conjunction with TxDOT, DPS and DIR, contracted with a third party vendor to collect and compare information on registered vehicles, licensed drivers, and insurance policies in the state. This program is currently in development and is expected to be integrated with law enforcement processes early in 2008. As the lead agency, TDI serves as contract administrator for the term of the contract and any future contracts. Duties include:

- acting as project and program manager, overseeing the development and continued successful operation of the program by the vendor, TxDOT and DPS;
- working with TDI's Information Technology Services Division to coordinate the Texas Project Framework deliverables and report to the Quality Assurance Team as part of the project framework; and
- processing and certifying invoices for payment, monitoring vendor expenses, and forwarding certified invoices to TxDOT for payment.

Additionally, the General Management Section works with Texas insurers writing automobile insurance policies to ensure compliance with regulatory requirements related to the Financial Responsibility Verification Program.

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.

P&C's General Management Section provides program-wide management and operational support, which contributes to the overall effectiveness and efficiency of each program division.

The 78th Legislature passed SB 14, which substantially reformed property and casualty insurance rate regulation in Texas, resulting in more affordable rates for consumers. P&C responded to this significant policy change by successfully and timely reviewing the resulting rate and form filings. To ensure effective implementation and communicate changes to the industry and public, P&C created a resource page on TDI's website and updated *Filings Made Easy* manual to address statutory changes.

Improvements to forms processing have positively impacted industry's satisfaction with P&C. P&C streamlined processes to make a significant improvement in form processing timeliness, despite staff reductions. In FY 2006 over 95 percent of the 11,553 form reviews were completed within 90 days. This reflects a significant increase over the 71 percent of the 10,383 form filing reviews completed within 90 days in FY 2000.

In FY 2000, P&C had 181.9 allocated FTEs. By FY 2006, the program reduced staff to 128.75 FTEs, while striving to maintain high levels of productivity and customer satisfaction. To measure performance, P&C's General Management Section reviews TDI's Customer Satisfaction Survey results for opportunities to improve services and processes.

In August 2006, the Agency Counsel Section of TDI's Legal Services Program sent a customer service survey to requestors that submitted open record requests during FY 2005. Most of the responses received were from representatives of insurance companies. Seventy-two percent of respondents indicated that TDI provided "very good" service and 90 percent indicated that the request was completed by the specified due date. The results reflect the professional and timely service provided by P&C, which handles just over one-third of TDI's open record requests.

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.

The following presents significant program-wide history for the Property and Casualty program. Note that the history is detailed by fiscal year.

1992 - A number of separate Property & Casualty activities were combined into one, including moving Statistical and Rate Development from the Commissioner's Office to P&C.

1992 - As a result of legislative changes, new rating systems were introduced that gave companies more flexibility in offering a wide array of prices to consumers. Texas implemented a file and use system for commercial property and general liability rate filings, a flex rating system for residential property and automobile (both commercial and private passenger), and a prior approval system for individual company filings of commercial property and general liability policy forms and endorsements.

1992 - Detailed Claim Information (DCI) was established to collect workers' compensation claim information as required by Texas Insurance Code.

1993 - Companies required to maintain their own experience rating data calculate their own modifiers,

activities, which had previously been the responsibility of the Texas Automobile Insurance Service Office (TAISO).

1993 - Statistical and Rate Services became a separate activity, incorporating parts of the present-day Property & Casualty Actuarial and Data Services divisions.

1993 - The commissioner privatized the calculation of workers' compensation experience modifiers and transferred the function to the insurance carriers writing workers' compensation coverage.

1994 - Technical Analysis organized as a separate activity to review and analyze statistical data and prepare reports on insurance rates and markets to assist policy makers and consumers with insurance-related decisions.

1995 - TDI adopted nationwide rating schedules for commercial property, utilizing the Insurance Services Office (ISO) Public Protection Classification (PPC) program to replace key rates. It also implemented an oversight inspection program for commercial property to ensure fair and equitable fire coverage and accurate PPCs statewide.

1995 - Title insurance functions were relocated from several areas of the agency to create one section under Property/Casualty Insurance Lines.

1995 - Recruitment of a Fellow of the Casualty Actuarial Society as Chief Actuary and an Associate of the Casualty Actuarial Society as a Senior Actuary expanded the program's actuarial expertise.

1996 - The National Council of Compensation Insurance (NCCI) was appointed as the Texas workers' compensation statistical agent.

1996 - The Texas Insurance Checking Office (TICO) was designated as the Statistical Agent for personal lines and Insurance Services Office (ISO) was designated statistical agent for commercial lines.

1997 - The Residential Property Insurance Market Assistance Program (MAP) was established to assist consumers in underserved areas in finding insurance for their homes.

1997 - The Inspection and Fire Safety Section implemented a new Voluntary Inspection Program (VIP) as adopted by the 1995 Legislature to provide homeowners with a "certificate of insurability" if their home passes an inspection by a credentialed inspector qualified by TDI.

1997 - The Windstorm Building Code for Windstorm Resistant Construction was adopted by the Commissioner of Insurance in June 1997 with an effective date of September 1998.

1998 - The Commercial Property/Casualty division was created by eliminating separate sections for commercial property, professional liability, general liability, and bond, crime, and glass.

1998 - The Automobile Insurance Market Assistance Program (MAP) was established to assist consumers in underserved areas in finding automobile insurance.

1999 - Licensed engineers allowed by rule to serve as windstorm inspectors if they meet necessary qualifications.

2000 - Regulation, Safety and Technical Analysis programs combined to create the present-day structure of the Property & Casualty program. The remaining division of Regulation and Safety formed the present-day Life, Health and Licensing program.

2000 - The Residential Property Insurance Market Assistance Program (MAP) Plan of Operation was amended to allow property owners to apply directly to TDI rather than through an agent.

2000 - The Automobile Insurance Market Assistance Program (MAP) application was placed on the TDI's website so good drivers living in underserved ZIP codes can apply for lower-priced car insurance through the state's automobile insurance Market Assistance Program (MAP) via the internet.

2001 - Legislation changed the system for establishing benchmark rates from requiring a contested rate hearing before the State Office of Administrative Hearing to a system with a non-contested hearing before the Commissioner of Insurance.

2002 - TDI held informational hearings on mold coverage provided in Texas residential property insurance policies to gather information and comments on the extent to which mold coverage should be provided in Texas homeowners policies. Related activities included:

- Consulting with a 19-member Mold Advisory Task Force appointed by the Commissioner of Insurance in developing a brochure entitled *Effectively Handling Water Damage and Mold Claims: A Consumer Guide*. The publication also included suggested practices for insurers to follow when processing these claims.
- Consulting with the Texas Department of Health to develop a consumer publication entitled *Protecting Your Home from Mold*.
- Amending the prescribed residential property insurance policies to clarify coverage related to mold damage and remediation.

2003 - The 78th Legislature enacted SB 14, bringing all licensed automobile and residential property insurers under TDI rate regulation, including county mutuals for automobile and Lloyd's plans, reciprocals and interinsurance exchanges for residential property. Under SB 14, TDI was required to review all residential property insurance rates by early September 2003 and approve or modify the filed rates such that the rates were "just, reasonable, adequate, not excessive, and not unfairly discriminatory for the risks to which they applied." In August 2003, TDI announced rate actions for the top 32 insurance company groups. In September 2003, TDI announced rate actions for the remaining 29 insurance company groups. The total rate actions reduced rates up to 31 percent, saving Texas consumers more than \$511 million.

2003 - SB 14 brought the regulation of policy forms and endorsements for residential property and personal automobile insurance under Chapter 2301, Texas Insurance Code.

2003 - Activation of the Texas Fair Access to Insurance Requirements (FAIR) Plan Association, the market-of-last-resort for Texas consumers who have been denied homeowners coverage.

2003 - Creation of a special website, www.helpinsure.com, to help consumers find insurers still accepting new homeowners policyholders, along with local agents who represent those insurers.

2003 - TDI adopted the 2000 International Residential Code (IRC) and International Building Code (IBC) with Texas revisions as the new standard for certification by TDI for windstorm resistant construction. Consequently, the Commissioner of Insurance adopted rate reductions for policies written through the Texas Windstorm Insurance Association (TWIA) as a result of the adoption of the IRC and IBC.

2004 - Rules were adopted requiring companies using credit scoring in their rating practices to provide a

disclosure statement to the consumer once an insurance application is received. The disclosure also explains the consumer's right to appeal an adverse ruling that results in higher rates or other adverse actions. The company must provide a contact telephone number which the consumer can call to dispute inaccurate or prohibited information.

2004 - The Commissioner of Insurance adopted the 2003 IRC/IBC with Texas Revisions as the building standard to determine eligibility for coverage for coastal property with TWIA

2004 - The Legislature created a new workers' compensation research function at TDI by transferring the statutory research duties of the former Research and Oversight Council on Workers' Compensation (ROC) to the agency.

2005 - The Market Assistance Programs (MAP) for residential property and personal automobile were eliminated. Due to the introduction of the Fair Access to Insurance Requirements (FAIR) program and declining participation in the residential property MAP as well as low participation in the personal automobile MAP, TDI recommended elimination of the MAP function as part of the overall state budget reductions for FY 2006.

2006 - Due to the tremendous damage caused by Hurricane Rita (September 2005), staff developed several educational brochures, including *Repairs After Rita* and *Re-Roofing after the Storm*, to assist homeowners in repairing their homes to meet building code requirements. The Property & Casualty program also collected Hurricane Rita data to identify losses and potential claims paying problems, and a Temporary Qualified Inspector Rule was adopted by the Commissioner of Insurance to appoint qualified inspectors to assist the agency in certifying structures in the aftermath of a major disaster.

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.

P&C's customer base includes property and casualty insurance companies, advisory organizations, insurance agents, industry groups, residual market mechanisms, legislative staff, and consumers. Following is a breakdown of the persons and entities affected by the functions of this program. Data is for FY 2006 unless noted otherwise.

- Texas homeowners: 4,717,294 (U.S. Census, 2000)
- Texas renters: 2,676,060 (U.S. Census, 2000)
- Texas licensed drivers: 17.7 million (approximate, Texas Department of Public Safety)
- Texas registered vehicles: 18 million (approximate, Texas Department of Transportation)
- Commercial lines policies, excluding Worker's Compensation: 1.5 million
- Active Property and Casualty Insurers (FY 2006, 4th Quarter):

| Line of Business | # Companies |
|--------------------------------------|-------------|
| Product Liability | 155 |
| General Liability | 309 |
| Commercial Fire & Allied | 167 |
| Commercial Multiple Peril | 190 |
| Private Passenger Automobile | 171 |
| Homeowners Multiple Peril | 95 |
| Workers' Compensation | 223 |
| Boiler & Machinery | 90 |
| Commercial Crime | 75 |
| Commercial Glass | 8 |
| Medical Professional Liability | 40 |
| Miscellaneous Professional Liability | 62 |

Note: some companies are licensed in Texas and submit rate and form filings, but were not actively writing in 4th Quarter FY 2006; therefore, they are not included in the above figures.

- Authorized Managing General Agents: 151
- Title Underwriters: 21
- Licensed Title Agents: 619 - licensees are licensed in accordance with the requirements of Texas Insurance Code, Title 11.
- Escrow Officers: 6,906 - licensees are licensed in accordance with the requirements of Texas Insurance Code, Title 11.
- Direct Operations: 16 - the title insurance company is a Texas corporation or a foreign corporation holding a certificate of authority to insure titles to real property in this state and meets the requirements of Texas Insurance Code, Title 11.
- Office of Public Insurance Council (OPIC)
- Designated statistical agents, as authorized by Texas Insurance Code, Section 38.202:
 - Texas Insurance Checking Office (TICO)
 - Insurance Services Office (ISO), and
 - National Council on Compensation Insurance (NCCI).
- Statutorily created entities, as authorized by Texas Insurance Code, Chapters 2210, 2211, 2203 and 2151, respectively:
 - Texas Windstorm Insurance Association (TWIA)
 - Texas Fair Access to Insurance Requirements (FAIR) Plan Association
 - Texas Medical Liability Insurance Underwriting Association (JUA), and
 - Texas Automobile Insurance Plan Association (TAIPA).
- Advisory organizations operating pursuant to Texas Insurance Code, Chapter 1805:
 - Insurance Services Office (ISO)
 - American Association of Insurance Services (AAIS)
 - Surety and Fidelity Association of America (SFAA)
 - Insurance Council of Texas (ICT), and
 - National Crop Insurance Services (NCIS).
- Builders/Roofers - must build to the Windstorm Building Codes and participate in the inspection process for structures to qualify for TWIA coverage.
- Appointed Engineers: 643 (as of June 25, 2007) - must design, inspect and certify to the Windstorm Building Code. To qualify as an appointed engineer, applicants must be Texas licensed engineers and attest that they have education, experience or training in the design of structures in high wind areas pursuant to Title 28, Texas Administrative Code, Section 5.4604(d)(1).

- Architects and Designers - must design structures in accordance with the Windstorm Building Code to be eligible for TWIA coverage.
- Manufacturers and Suppliers - must manufacture and supply products which are compliant with the Windstorm Building Code.
- Loss Control Field Representatives (LCFR) - LCFRs are employees of insurers or fee service companies who provide loss control services to commercial policyholders and they must meet specific criteria as defined in Texas Administrative Code, Title 28 Sections 5.311, 5.1701, and 5.1731 to qualify as an LCFR.
- Amusement Ride Owners/Operators - must comply with all requirements mandated by Texas Occupations Code, Chapter 2151. In FY 2006, 1,436 amusement rides were certified.
- Amusement Ride Inspectors - must comply with all requirements mandated by Texas Occupations Code, Chapter 2151.
- Inspectors: TDI certifies and licenses inspectors for the Voluntary Inspection Program in accordance with Texas Insurance Code, Section 2003.101. Qualifications for inspectors are outlined in Texas Administrative Code, Title 28 Section 5.3800. In FY 2006, TDI licensed/certified 154 inspectors. Currently there are 430 licensed/certified inspectors.

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.

Each P&C division leader reports directly to the Senior Associate Commissioner. Regular management staff meetings allow the Senior Associate Commissioner to provide information on activities within other agency programs and to gather information from P&C managers. These regular meetings allow managers to discuss current topics, brainstorm solutions, manage workloads, plan for pending or special projects, and discuss market conditions and regulatory needs. P&C has compiled written procedures for each division's key functions and activities, which are available for review.

P&C management encourage staff to participate in agency-sponsored education programs and also encourage the pursuit of various professional designations. P&C currently employs staff with the following designations:

- Accredited Customer Service Representative (ACSR) – 29 staff have the designation for personal and/or commercial lines of insurance, and numerous other staff are in the process of completing requirements.
- Chartered Property Casualty Underwriter (CPCU) – four staff have the designation and at least three staff are in the process of completing requirements.
- Fellow of the Casualty Actuarial Society (FCAS) – four staff have the designation.
- Associate of the Casualty Actuarial Society (ACAS) – four staff are in pursuit of the designation.
- Associate in Risk Management (ARM) – two staff have this designation.
- Certified Fraud Examiner (CFE) – one staff has this designation.
- Associate of Insurance Regulatory Compliance (AIRC) – one staff has this designation.
- Coastal Construction Inspectors/Residential Building Inspectors/Commercial Building Inspectors, certified by the International Code Council – approximately 18 staff are certified in one or more of these areas.
- Texas Licensed Professional Engineer – six staff hold this designation.

The Senior Associate Commissioner encourages division leaders to incorporate cross-training and succession planning as appropriate. Additionally, P&C uses the following leader development philosophy:

1. Identify
 - Managers identify employees who consistently perform well on tasks, routine assignments, and special projects.
 - Managers identify strengths and capabilities based on past performance.
 - Managers identify staff appropriate for cross-training and multi-disciplinary opportunities.
 - Managers identify staff exhibiting a desire to develop into a management or leader type position.
2. Delegate
 - Existing managers delegate additional authority or assign new projects to employees who consistently perform well and/or are appropriate for multi-disciplinary opportunities.
 - These employees are empowered to develop information and propose processes as necessary and appropriate for their tasks.
 - The employees review and discuss processes and outcomes with their manager and other staff, as appropriate.
3. Develop
 - As high-performing staff is identified, managers continue to delegate higher level activities and responsibilities and increase multi-disciplinary opportunities.
 - Managers continue to monitor performance of these employees, offer encouragement and advice as necessary, and act as a mentor when needed.
 - Managers apprise Senior Associate of developing employees; these are the staff that would be appropriate for future supervisory roles or as subject matter experts.

P&C's General Management Section is led by the Senior Associate Commissioner. The section consists of a team leader (program specialist), and five additional program specialists. General Management Section staff meet as needed on an informal basis, and work closely with the Senior Associate Commissioner to ensure that program needs are met and that staff is prepared to assist the program as needed.

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.

Funding for the Financial Responsibility Verification Program (FRVP) mandated by Texas Transportation Code, Section 601.452 is provided through TxDOT. TDI certifies invoices for payment and forwards the certified and dated original invoices to TxDOT for payment.

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

No other programs provide identical or similar services as those of P&C's General Management section.

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.

The 79th Texas Legislature, Regular Session, passed SB 1670, which provides that TDI, in consultation with DPS, TxDOT, and DIR "shall establish a program for verification of whether owners of motor vehicles have established financial responsibility." As a result of SB 1670, TDI and the implementing agencies jointly entered into a contract with a vendor to develop, implement, operate and maintain Texas' Financial Responsibility Verification Program. TDI acts as the contract administrator for the project, and coordinates project development among the other three agencies and program vendor.

The Office of Public Insurance Counsel (OPIC) was created to represent the interests of insurance consumers in Texas. Once a division of TDI, OPIC became a separate agency in 1991 as a result of insurance reform legislation. OPIC acts as an advocate for insurance consumers, primarily before TDI. OPIC's statutory authority is found in the *Texas Insurance Code*, Chapter 501 and Section 38.002.

Additionally, P&C works with other local, state, and federal regulatory entities as necessary.

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.

Two issues surround an ongoing debate on market forces versus actuarial determination: (1) achieving a balance between affordability and availability, and (2) allowing the market to self regulate.

In terms of affordability and availability, achieving a balance can be a challenge. If insurers raise rates to a level at which they are willing to provide coverage, it may be too costly for consumers to purchase insurance. Conversely, if premiums are held to a level that is affordable for consumers, insurers may choose not to offer coverage. This situation can be seen in the homeowners insurance market along the

Texas coast. Rate regulation helps ensure that filed rates are not excessive or unreasonable, with the desired result that coverage is both available and affordable for consumers.

The second issue is to what extent competition should be allowed to regulate the market place. Insurers argue that if there are numerous companies providing coverage at reasonable prices, then rate regulation is not necessary because insurers will lower the premiums they charge consumers in order to attract business. Others argue that even in a thriving marketplace, rates can still be excessive. The statutory rate standards say that “a rate may not be excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which the rate applies.” Rate regulation as it stands today applies to the company and the risks they write, as opposed to the industry, or how they compare to the industry.

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 | Property & Casualty Program, Personal and Commercial Lines |
| Location/Division | William P. Hobby Building, Tower I, 4th Floor |
| Contact Name | David Nardecchia, Director |
| Actual Expenditures, FY 2006 | \$1,555,219.32 |
| Number of FTEs as of August 31, 2006 | 33 |

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

The objective of the Personal and Commercial Lines Division is to support the mission of the Property & Casualty (P&C) Program through reviewing insurance products and assisting consumers. The division consists of the Personal Lines Section and the Commercial Property/Casualty Section, and is responsible for the regulation of various lines of insurance including automobile, homeowners, commercial property, and general liability. The division performs the following major activities:

- reviews individual insurer filings of forms, endorsements, and rules for compliance with statutory and/or rule requirements and verifies that they do not contain provisions, titles, or headings which are unjust, encourage misrepresentation, are deceptive, or violate public policy;
- drafts administrative rules as necessary to implement legislation or to address statutory concerns related to property and casualty lines of insurance;
- oversees the Plan of Operation, manual rules, forms, and endorsements of the following statutorily created entities to ensure a method of providing insurance for persons unable to obtain insurance in the voluntary market:
 - Texas Windstorm Insurance Association (TWIA). Oversight of TWIA is shared with the Inspections Division.
 - Texas Fair Access to Insurance Requirements (FAIR) Plan Association
 - Texas Medical Liability Insurance Underwriting Association (JUA), and
 - Texas Automobile Insurance Plan Association (TAIPA).
- processes inquiries from agents, consumers, legislators, insurers and other regulatory entities and resolves complaints as necessary to ensure consumers and businesses are being treated fairly on insurance related matters and that insurers and agents are complying with statutes, administrative rules and policy provisions; and
- works closely with the P&C Actuarial Division to monitor the marketplace and propose changes due to changing public needs.

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 Personal and Commercial Lines Division continues to consistently improve its operating efficiency and effectiveness despite a decrease in the number of funded FTEs. To improve operational efficiency, the division streamlined various processes and procedures as evidenced by frequent updates to the procedures manual. In FY 2005, filing requirements were streamlined as a result of the adoption of the

Filings Made Easy (FME) rule that included provisions allowing insurers to make interline filings and dual filings. Interline filings allow a company to make one filing for multiple lines of insurance. Prior to the adoption of FME, a separate filing was necessary for each line of insurance. Dual filings allow a company to use its approved form in multi peril policies without making a separate multi peril filing, as was required prior to the adoption of FME. The division also adopted the System for Electronic Rate and Form Filing (SERFF) technology to accept and process form filings electronically for those insurers that utilize SERFF. SERFF is maintained by the National Association of Insurance Commissioners (NAIC) and was designed, in part, to improve overall efficiency of the form filing process. There are numerous checks and balances in place to help ensure that filings are reviewed in an effective manner. For example, the division developed and implemented filings review guidelines that are utilized by staff when reviewing filings.

Personal and Commercial Lines also streamlined form review processing. In FY 2006 over 95 percent of the 11,553 form reviews were completed within 90 days. This reflects a significant increase over the 71 percent of the 10,383 form filing reviews completed within 90 days in FY 2000.

Additionally, from FY 2000 to FY 2006, staff productivity improved as the number of filings increased and staffing decreased.

- Commercial Property/Casualty Section staff processed 10,834 filings in 2006 compared to 9,563 in 2000. The total number of FTEs in FY 2006 was 19, down from 29 in FY 2000.
- Personal Lines Section staff processed 719 filings in 2006 compared to 774 in 2000. The total number of FTEs in FY 2006 was 14, down from 19 in FY 2000.

Performance measure statistics related to Personal and Commercial Lines Division:

| 1.1.2 outcome 3 – Percent of statutory form filings completed within 90 days* | | | | | |
|--|--|----------------|----------------|----------------|----------------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 91.3% | 87.6% | 93.2% | 95.0% | 95.6% |
| Annual Target | 80.0% | 80.0% | 91.0% | 91.0% | 87.0% |
| Percentage of Target | 114.0% | 110.0% | 102% | 104% | 110.0% |
| Analysis/Variance Explanation | Exceeding the annual target is a result of the division's efforts to continually review its processes and procedures and make changes that result in a more streamlined approach to the review and approval of policy forms. | | | | |

*Note: Measure 1.1.2 oc 3 is shared with the Property & Casualty Actuarial Division and includes rate filings. The above data is for Personal and Commercial Lines Division form filings only.

The Personal and Commercial Lines Division also streamlined processes for complaint processing. Except for FY 2003, the Division consistently exceeded the TDI target performance measure for processing complaints within 38 days as noted in the table below.

| 1.2.1 efficiency 1 – Average response time (days) to complaints* | | | | | |
|---|--|----------------|----------------|----------------|----------------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 28 | 72 | 30 | 27 | 31 |
| Annual Target | 38 | 38 | 55 | 55 | 38 |
| Percentage of Target | 74% | 189% | 55% | 49% | 82% |
| Analysis/Variance Explanation | The FY 2003 target was not met due to a substantial increase in the number of complaints received in FY 2002 and FY 2003 pertaining to water-related claims, premium increases and availability of coverage. | | | | |

*Note: The above data is for Personal and Commercial Lines Division complaints only.

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

History is presented in P&C's General Management response to Section VII.D.

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.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

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 Director of Personal and Commercial Lines administers the division and reports to the Associate Commissioner for P&C, who reports to P&C's Senior Associate Commissioner. The division consists of the Personal Lines Section and the Commercial Property/Casualty Section.

The Personal Lines Section manager administers this section and reports to the Director. The Personal Lines Section has one team leader and one assistant team leader for the various lines of insurance regulated by the section. The team leader reports to the manager and is responsible for the day to day operation of the team, including monitoring workload to ensure assignments are completed in accordance with established procedures and guidelines. The assistant team leader supports the team leader with the day to day operation of the team.

The Commercial Property/Casualty Section manager administers this section and reports to the Director. The Commercial Property/Casualty Section has two team leaders responsible for the various lines of insurance regulated by the section. Both team leaders report directly to the manager and are responsible for the day to day operation of the team, including monitoring workload to ensure assignments are completed in accordance with established procedures and guidelines.

Personal and Commercial Lines supports and promotes staff professional development and cross training, which improves management of staff workloads and supports succession planning. Subject matter experts in both the Commercial Property/Casualty and Personal Lines Sections serve as mentors and assist staff with filings review, complaint processing, and responding to inquiries. Additionally, in-house training is offered to staff across both sections to review policy forms and coverages for the subject lines of insurance, filing review requirements, and information related to the agency's historical regulatory approach to the subject lines of insurance. Weekly meetings provide an additional avenue for staff and management to discuss a range of coverage issues as needed.

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.

Life, Health, and Licensing (LHL) Program

LHL staff perform some functions similar to the Personal and Commercial Lines Division, but for differing lines of insurance.

Consumer Protection (CP) Program

Generally, CP handles the processing of complaints from consumers, agents and other entities for the agency; however, the Personal and Commercial Lines Division handles the processing of some complaints related to property and casualty lines of insurance that require specific technical knowledge. In addition, both CP and the Personal and Commercial Lines Division respond to inquiries from consumers regarding various property and casualty lines of insurance.

Office of the Public Insurance Counsel (OPIC)

For purposes of consumer protection, OPIC has certain responsibilities including reviewing selected form filings for property and casualty insurers. OPIC also may obtain and summarize underwriting guidelines for property and casualty lines of insurance and provide a summary of those guidelines to the public via its website.

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.

Life, Health, and Licensing Program

The Personal and Commercial Lines Division functions separately from the LHL program. Each of these divisions is charged with a different line of insurance regulation, and services do not overlap.

Consumer Protection Program

In order to avoid duplication of effort or conflict and to clearly define roles in processing complaints between CP and other programs, the agency developed a resource tool describing the types of complaints handled by each division. In addition, both CP and the Personal and Commercial Lines Division utilize the Complaint Inquiry System and communicate as necessary to avoid duplication or conflict in processing complaints related to property and casualty lines of insurance and responding to inquiries. The complaint handling resource tool is available for review.

Office of the Public Insurance Counsel

OPIC, acting as an advocate for insurance consumers, reviews and provides comments to the agency on selected form filings for property and casualty insurance, while the Personal and Commercial Lines

Division reviews form filings and makes recommendations for approval or disapproval. OPIC's involvement is limited to review and comment; TDI retains decision making authority with regard to form filings.

OPIC's website contains a summary of underwriting guidelines for homeowner and personal automobile lines of insurance, which may assist consumers shopping for these lines of coverage. In the course of monitoring the insurance marketplace, the Personal and Commercial Lines Division reviews underwriting guidelines to ensure the guidelines comply with statutory requirements.

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 Personal and Commercial Lines Division occasionally works with the following governmental agencies:

- Federal Emergency Management Agency (FEMA) – staff correspond with FEMA when necessary regarding Code of Federal Regulations for those applicants requesting certification from the Commissioner of Insurance that the types and amounts of insurance required to obtain FEMA assistance are not available;
- United States Department of Agriculture, Risk Management Agency (RMA) – RMA administers the federal crop insurance program and staff will serve as a resource for the RMA as necessary;
- Government Accountability Office (GAO) – staff serve as a resource for the GAO on insurance matters as necessary;
- United States Treasury Department (Treasury) – staff work with the Treasury on matters related to the federal Terrorism Risk Insurance Act;
- National Flood Insurance Program (NFIP) – staff may communicate with NFIP to gather data related to consumers affected by flood in various geographic areas around the state; and
- Various Texas state agencies as necessary to assist with insurance related issues. Some examples include the State Office of Risk Management, the Department of State Health Services, and the Governor's Division of Emergency Management.

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.

The regulation of property and casualty lines of insurance not only varies by state, but by line of insurance. In Texas, the Commissioner of Insurance is required to approve policy forms for personal and commercial lines of insurance before companies can use them. This type of regulation is commonly referred to as “prior approval.” However, there are some exceptions to these prior approval requirements. For example, policy forms for certain personal and commercial inland marine coverages written by certain companies are, by statute, not required to be filed and approved by the Commissioner of Insurance. Also, policy forms for use with commercial risks that are defined by statute to be a “large risk” are not required to be filed and approved prior to use. Following is a brief description of how other states regulate personal and commercial lines of insurance. This information was obtained from the Insurance Services Office (ISO is an advisory organization operating pursuant to Texas Insurance Code, Chapter 1805):

Personal Lines of Insurance

For the regulation of policy forms for personal automobile insurance, 36 states are prior approval, 10 states are file and use, 3 states are file and wait, and 1 state has standard policy forms. For the regulation of policy forms for homeowners insurance, 36 states are prior approval, 10 states are file and use, 3 states are file and wait, and 1 state does not require a filing to be made.

Commercial Lines of Insurance

More than half of the states are prior approval for the regulation of policy forms used on commercial lines of property and casualty insurance. Many of the states also have variations to the prior approval requirements for commercial lines of insurance similar to Texas. For example, most states have exceptions for policy forms that are used for large commercial risks.

Personal and Commercial Lines Division staff participated in NAIC’s Speed to Market Improvements to State Based Systems Plan (STM-IS3) and developed checklists consistent with the STM-IS3 Review Standards Checklists Subgroup.

- 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.

Personal and Commercial Lines is responsible for the review of policy forms and endorsements for personal and commercial property and casualty lines of insurance. Prior approval of individual insurer filings of policy forms and endorsements is required pursuant to Texas Insurance Code, Chapter 2301. Staff review policy forms and endorsements for compliance with statutory and/or rule requirements and verify that they do not contain provisions, titles, or headings which are unjust, encourage misrepresentation, are deceptive, or violate public policy. The prior approval system for policy forms and endorsements enables TDI staff to ensure that there is no potential harm to consumers when the policy forms and endorsements are introduced in the marketplace.

During the review process, personal and commercial lines staff utilize review standards checklists to ensure the policy forms and/or endorsements comply with the applicable statutory requirements and the requirements of Texas Administrative Code, Title 28 Section 5.9310. Staff routinely correspond with representatives from the insurance companies regarding the filing and any corrections that are necessary in order for staff to recommend approval of the policy forms and/or endorsements. Policy forms and/or endorsements that do not comply with the applicable statutory requirements or the requirements specified in Texas Administrative Code, Title 28 Section 5.9310 may be deemed incomplete and returned to the company or disapproved by the Commissioner of Insurance.

The Personal and Commercial Lines Division processes complaints from consumers and businesses regarding cancellation, non-renewal, rating and policy interpretation. CP processes the majority of automobile complaints; however, at times the Personal and Commercial Lines Division is directed to process a limited number of automobile complaints that are typically legislative in nature. The division also processes FAIR and JUA complaints. Staff review the complaint and correspond with involved parties to determine/verify the information provided in the complaint and gather any additional information that may be needed. Staff review the information to determine if there are any potential violations of the Texas Insurance Code and/or the Texas Administrative Code. Complaints that may contain possible violations of the Texas Insurance Code or Texas Administrative Code are referred to the Compliance Intake Unit of the Enforcement Program for further review. Upon referral of the complaint, staff assists the Enforcement Program as necessary including discussions regarding the appropriate sanctions for actual violations determined to have occurred. Intervention by the agency ensures that consumers are treated in accordance with policy provisions and all statutes and rules.

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.

| Property & Casualty Program Personal and Commercial Lines Division Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2005 and 2006 | | |
|--|----------------------------------|----------------------------------|
| | FY 2005 | FY 2006 |
| Total number of regulated entities | 1,109 | 1,120 |
| Total number of complaints received from the public | 640 | 451 |
| Total number of complaints initiated by agency (division referrals to TDI's Enforcement Program) | 28 | 4 |
| Number of complaints pending from prior years | 0 | 1 |
| Number of complaints found to be non-jurisdictional | 13 | 1 |
| Number of jurisdictional complaints found to be without merit (Unjustified) | 358 | 260 |
| Number of complaints resolved (Justified) | 282 | 191 |
| Average number of days for complaint resolution | 45 (Commercial) 23 (Personal) | 44 (Commercial) 28 (Personal) |
| Complaints resulting in disciplinary action: | | |
| Administrative penalty (monetary forfeiture) | 1 | 1 |
| Reprimand (warning letter) | 4 | 0 |
| Suspension (cease and desist) | 2 | 0 |
| Revocation of agent's license | 1 | 0 |
| Other (closed no action) | 9 | 2 |

VII. Guide to Agency Programs

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

| | |
|--------------------------------------|---|
| Name of Program or Function | Property & Casualty Program, Inspections Division |
| Location/Division | William P. Hobby Building, Tower I, 3rd Floor |
| Contact Name | Alexis Dick, Deputy Commissioner |
| Actual Expenditures, FY 2006 | \$2,564,030.50 |
| Number of FTEs as of August 31, 2006 | 47.75 |

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

The Inspections Division's primary objective is to improve the availability and affordability of insurance by promoting loss mitigation. The Inspections Division's major activities are as follows:

- drafts and presents proposed rules affecting property and casualty insurance and the Texas Windstorm Insurance Association (TWIA) Plan of Operation (Building Code)
- represents TDI on the Building Code Advisory Committee as required by statute
- provides oversight of established commercial fire rates by outside entities
- ensures loss control compliance of insurers
- administers the amusement ride safety program
- assists the State Fire Marshal's Office (SFMO) with establishment of public protection classifications by outside entities
- conducts windstorm inspections for compliance with building codes.

The Inspections Division consists of four sections.

- Commercial Property Oversight Inspections
- Windstorm Inspections
- Engineering Services
- Loss Control.

Commercial Property Oversight Inspections

The Commercial Property Oversight Inspections Section performs the following activities:

- ensures consumers receive fair and equitable commercial property rates through random statewide spot-check inspections;
- evaluates the potential for fire losses through assessment of building codes, classification of building materials and construction techniques and commercial property rating schedules;
- provides complaint resolution as needed concerning inspections, classifications or a base fire rate assigned by a private inspection entity; and
- issues licenses to individuals conducting underwriting inspections for determining insurability of residences.

Commercial property oversight inspections are conducted under the authority of Texas Insurance Code, Chapter 2001. Commercial property oversight is needed to assure that accurate loss costs are developed and that structures are properly classified in accordance with industry-filed building rating schedules.

Commercial Property Oversight performs spot-check inspections of the Insurance Services Office (ISO) commercial property surveys. Initial oversight of the inspections performed by ISO indicated a 30 percent error rate of commercial property surveys. Through continued oversight, nationwide survey procedures developed by ISO and TDI have resulted in a 50 percent decrease in the error rate. TDI oversight of ISO surveys has resulted in fair and equitable rates for consumers and a consistent application of the schedule.

Windstorm Inspections

Through four field offices, the Windstorm Inspections Section inspects and certifies property constructed, repaired or modified in the 14 coastal counties along the Gulf of Mexico and certain specified areas in Harris County, which are designated as catastrophe areas. Windstorm inspectors ensure compliance with the building specifications and standards set forth in the TWIA Plan of Operation before coastal property is declared eligible for coverage written through TWIA. The Windstorm Inspections Section primarily serves to protect the state's assets by ensuring buildings insured through TWIA are code compliant.

TDI's certification of structures is important to ensure that construction and repairs are performed in accordance with adopted building code specifications and to reduce losses and TWIA's exposure to losses. TWIA's exposure has increased to approximately \$48 billion in liability as of April 30, 2007. TWIA losses in excess of a certain threshold will negatively impact the general revenue of the State of Texas. . Without TDI's Windstorm Inspection Certificate of Compliance (Form WPI-8), TWIA will not provide wind and hail insurance coverage, which could adversely impact consumers and insureds residing on the Texas Gulf Coast as voluntary market coverage for wind and hail insurance is not available in many portions of the designated catastrophe area. Texas Insurance Code, Section 2210.251 provides an exception to the WPI-8 requirement. An applicant may obtain wind and hail coverage through TWIA without going through the inspection process if certain criteria are met. These criteria are described in Section VII.M below. Information about the Texas counties included in the designated catastrophe area is available on TDI's website at <http://www.tdi.state.tx.us/wind/index.html>.

Engineering Services

The Engineering Services Section performs the following activities:

- provides education on windstorm building codes to consumers and professionals
- oversees Texas licensed engineers appointed as qualified inspectors
- evaluates and approves designs for compliance with windstorm building codes
- evaluates building products
- evaluates and recommends applicable building code standards for TWIA building specifications
- assesses commercial and residential automatic sprinkler systems
- reviews calculation and building design plans certified by engineers
- supports the Building Code Advisory Committee
- supports SFMO in evaluating public and private fire suppression rating schedules
- supports the P&C Actuarial Division in evaluating rate filings and rate reduction proposals.

Engineering services are needed for building code development, enforcement, product evaluation, and education. The Engineering Services Section assists in the adoption of building codes to ensure that construction and repairs are made in accordance with the building codes using the latest technology to mitigate losses due to wind. The Engineering Services Section performs oversight to ensure and verify that the appointed inspectors are providing uniform and consistent inspections and properly certifying structures to the adopted building codes. Ensuring that construction and repairs are performed to the adopted building codes helps protect TWIA and Texas consumers from exposure to losses.

Loss Control

The Loss Control Section conducts inspections of insurance companies licensed in Texas and those seeking to be licensed to ensure that loss control and accident prevention services are provided for policyholders of general liability, professional liability, medical professional liability for hospitals and commercial automobile lines of insurance. The section registers loss control and field safety representatives who meet state requirements. Loss control inspections are necessary to ensure that insurance companies provide loss control and accident prevention services to aid commercial policyholders in reducing losses. In the absence of loss control audits, insurers may not provide loss control services to policyholders and policyholders would eventually pay higher rates and possibly lose coverage. Insurers are compensated through maintenance tax adjustments to provide loss control services to the policyholder.

Loss Control staff also monitor compliance with the Amusement Ride Safety Inspection and Insurance Act. In FY 2006, staff reviewed annual inspection reports and insurance policies of 1,436 amusement rides and 403 amusement ride owners/operators. Pursuant to *Texas Occupations Code*, Chapter 2151, amusement ride compliance is needed to ensure that amusement rides operating in Texas meet safety requirements established by law and provide insurance protection to the consumer. Failure to regulate amusement rides would compromise the safety of consumers.

Loss Control staff administer the Voluntary Inspection Program (VIP). Pursuant to *Texas Insurance Code*, Section 2003.101, VIP was established to aid consumers in increasing availability of residential property insurance. The purpose of this program is to provide that any person having an insurable interest in real or tangible personal property at a fixed location who desires to purchase residential property insurance may procure an independent inspection of the condition of the property by an inspector authorized to perform inspections under this program. Property meeting the conditions prescribed under this program receive a certificate of insurability. Insurance companies cannot refuse to renew or write coverage of residential property based on condition of the property if the consumer obtains this certification. Many insurers request a VIP inspection and certificate of insurability for property with previous water damage related claims. Without this program consumers would not be able to prove through an inspection that previously claimed damages have been repaired and that the property meets average or better condition, which could raise premiums and cause availability issues for the consumer. Insurers receive the benefit of knowing that the structure is insurable and previous losses have been repaired.

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 performance measures for the Commercial and Property Oversight Section demonstrate effectiveness as reflected in the charts below.

| 3.1.1 outcome 2 – Percent of fire inspections that meet fire inspection requirements | | | | | |
|---|--|----------------|----------------|----------------|----------------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 85% | 84% | 85% | 84% | 89% |
| Annual Target | 85% | 85% | 85% | 85% | 85% |
| Percentage of Target | 100% | 98.6% | 100% | 98.82% | 104.71% |
| Analysis/Variance Explanation | This measure provides data regarding the accuracy of commercial property inspections conducted by the Insurance Services Office (ISO). | | | | |

| 3.1.1 output 3 – Number of fire safety oversight inspections completed | | | | | |
|---|---|----------------|----------------|----------------|----------------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 1,158 | 1,141 | 1,205 | 1,160 | 1,170 |
| Annual Target | 1,200 | 1,200 | 1,160 | 1,160 | 1,160 |
| Percentage of Target | 96.50% | 95.08% | 103.88% | 100% | 100.86% |
| Analysis/Variance Explanation | The purpose of this measure is to measure the number of Commercial Property Oversight Inspections completed to assure that accurate loss costs are developed and that structures are properly classified in accordance with industry filed building rating schedules. | | | | |

For fiscal years 2005 and 2006, Engineering and Windstorm Inspections Services staff provided 1,017 hours of individualized education with appointed engineers, builders, roofers and contractors. Staff also conducted 44 educational seminars/classes for builders, consumers, insurance/real estate agents, lenders, suppliers, manufacturers, engineers and city and county officials. Topics included:

- windstorm inspections process and procedures
- building code standards and enforcement
- approved building products
- design of structures in high wind areas
- mitigation of structural damage due to high-wind events.

Staff met with builders, engineers and roofing contractors, providing one on one education and training. Education provides the public with knowledge and understanding of the windstorm inspection program and building specification requirements. Continued education helps achieve better building code compliance to ensure homeowners and business owners become eligible for wind and hail insurance through TWIA and mitigate losses which protects TWIA's exposure and the General Revenue Fund.

The main objective of the Windstorm Inspections Section is to determine compliance with the building code standard which in turn helps mitigate losses due to high wind events. As a result of the damage caused by Hurricane Rita, TDI conducted 18,923 windstorm inspections in FY 2006, a 64.5 percent increase from the target of 11,500. Of this total, 32.3 percent resulted in an approved status. This 32.3 percent fell just short of the target rate of 35 percent which can be attributed to contractors doing work after Rita who were unfamiliar with windstorm building code requirements. This percent approval demonstrates that, despite Hurricane Rita and the influx of workers unaware of the windstorm building code, TDI inspectors successfully and effectively trained contractors, and also inspected construction and determined compliance in a timely manner. The average cost to conduct the windstorm inspections for FY 2006 was \$44, which was less expensive than the target of \$50.

In FY 2006, the Loss Control Section met its performance measure target by completing 200 inspections of insurers' loss control programs. The performance measure target for inspecting loss control programs is based on the NAIC's database for companies licensed to write commercial insurance in the State of Texas.

Additional performance measure data for the division is presented in the charts that follow.

| 3.1.1 outcome 1 – Percent of insurers providing adequate loss control programs | | | | | |
|---|---|----------------|----------------|----------------|----------------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 90% | 98% | 97% | 100% | 99% |
| Annual Target | 88% | 88% | 88% | 88% | 93% |
| Percentage of Target | 102.55% | 111.31% | 110.18% | 113.64% | 106.45% |
| Analysis/Variance Explanation | This measure includes adequate loss control programs for commercial automobile, professional and general liability lines. | | | | |

The Voluntary Inspection Program (VIP) currently has 430 licensed/certified inspectors. In FY 2006 the section issued 74 new licenses/certificates and processed 81 renewals of licenses/certificates.

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

History is presented in P&C's General Management response to Section VII.D.

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.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

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 Inspections Division is led by a Deputy Commissioner who oversees the Commercial Property Oversight, Loss Control, Windstorm Inspections and Engineering Services sections. The Deputy Commissioner reports directly to P&C's Senior Associate Commissioner. A manager oversees the Commercial Property Oversight and Loss Control Sections, which also include the Amusement Ride Regulation and Voluntary Inspections Program functions. The Windstorm Inspections Section is led by a manager who oversees field offices in Beaumont, La Marque, Angleton and Corpus Christi. In addition, a supervisor oversees the Windstorm Intake Unit in Austin. Engineering Services is headed by the Chief Engineer.

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.

TWIA and TDI's Windstorm Inspections Section both use inspectors. However, the services are not identical or overlapping, as TDI windstorm inspectors and appointed engineers inspect a structure to determine compliance with windstorm building codes, while TWIA employs contract inspectors to determine if a structure meets TWIA underwriting guidelines.

External entities, including other state insurance departments, perform functions similar to the Inspections Division:

Commercial Property Oversight Inspections Section

Texas privatized its commercial property inspection and rating function in 1994 and adopted the Insurance Services Office's (ISO) Specific Commercial Property Evaluation Schedule (SCOPES), but retained the provision for TDI oversight to ensure fair and equitable commercial inspections statewide. Approximately 17 percent of state insurance departments continue to conduct and oversee commercial property inspections, using state inspectors to develop commercial property loss costs. The ISO conducts commercial property inspections in all other states.

Windstorm Inspections and Engineering Services Sections

While most hurricane-prone states have agencies involved in the adoption and inspection of statewide building codes, Texas does not license contractors, nor does it have an agency responsible for enforcing a mandatory statewide building code for windstorm resistance. TDI currently has a voluntary inspection and certification program, which addresses construction in the designated catastrophe area for persons wishing to obtain wind and hail coverage through TWIA. Inspections can only be made by TDI employees or Texas licensed professional engineers who have been appointed by the commissioner of insurance. The current building code standard which has been adopted by TDI is the International Building Code/International Residential Code (IBC/IRC) along with the Texas revisions. North Carolina, South Carolina and Florida specifically require plan review of structures and certification of inspectors, and are involved in various activities to mitigate damages as a result of high wind events. Florida also requires licensing of builders and roofers, which Texas does not.

Loss Control Section

Texas has statutorily required loss control requirements for insurers of commercial automobile, professional liability for hospitals, professional liability for insureds other than hospitals, general liability and medical professional liability insurance. Most other states only have a specific review of loss control services for workers' compensation insurance. Most large insurers, as a result of Texas' loss control requirements, extend these services to all of their policyholders in other states.

Amusement Ride Compliance

In Texas, TDI is responsible for the Amusement Ride Safety Inspection and Insurance Act, as a function of insurance regulation. Most other states have regulatory requirements for amusement rides; however, there is no consistent nationwide approach to amusement ride regulation. Examples of other states' agencies which regulate amusement rides are: Department of Agriculture, Department of Public Safety, State Fire Marshal's Office, State Treasury Department, State Department of Labor, and State Department of Commerce. Texas' amusement ride regulations can be categorized as mainstream, with some states applying more stringent regulation and some states with less regulation.

Voluntary Inspection Program

Texas is the only state known to TDI to have an insurance program that certifies or provides a license to an individual to inspect the condition of a structure for residential property insurance and issue a certificate of insurability.

- 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.**

TDI windstorm inspectors and appointed engineers inspect a structure to determine compliance with the windstorm building codes, while TWIA employs contract inspectors to determine if a structure meets the TWIA underwriting guidelines.

An inspection to determine if a structure or building meets the windstorm building code criteria requires windstorm plans, specifications, calculations, inspection reports, test reports, model code evaluation reports, TDI product evaluation reports and manufacturer's high wind installation instructions for the building products used in the construction of the building or structure. An inspection to determine if the structure meets the TWIA underwriting guidelines does not require this type of technical detailed information. Activities of the Windstorm Inspections Section and TWIA do not conflict and are not duplicated.

- 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 agency actively promotes the use of the windstorm building code and works with local building officials to educate builders, homeowners, engineers, suppliers, etc. about the building code and obtaining wind and hail insurance coverage through TWIA.

- 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.**

Restore ability of TDI to fine an appointed inspector.

Senate Bill 14, 78th Legislature, Regular Session removed TDI's statutory authority to levy administrative penalties against Texas licensed engineers who violate the rules and regulations of the agency. At this time, TDI can warn, probate or pursue removal from appointment. Reinstating TDI's statutory authority to levy administrative penalties against engineers appointed as qualified windstorm inspectors would benefit TDI's enforcement process. A policy issue discussed in Section IX of TDI's Self-Evaluation

Report proposes additional responsibilities for TWIA, which impact implementation of this recommendation if adopted.

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

At its inception, TWIA insured a structure if the homeowner could show an existing residential property insurance policy, or if the structure resided in a municipality that had a building code. However, following the devastation wrought in Galveston by Hurricane Alicia in 1983, the Legislature determined that building codes were not being enforced along the Texas Gulf Coast. Consequently, TDI's windstorm inspection program began in 1988.

In 1997, the Commissioner of Insurance adopted a windstorm building code based on Engineer Design Standards (ASCE-7) which required the use of engineering plans and calculations. The adoption of the more stringent engineering-based windstorm building code resulted in an increase in the number of inspections and certifications performed by Texas licensed professional engineers. Consequently, beginning February 1, 1999, TDI began the formal process of appointing Texas licensed professional engineers as qualified inspectors to perform windstorm inspections. TDI adopted the appointment process to provide specific procedures that must be followed for the inspection and notification of compliance of a structure by a Texas licensed professional engineer. This process is designed to ensure that Texas licensed professional engineers appointed as qualified inspectors have the experience, education and skills necessary to design, inspect and certify structures for wind resistance in high wind areas. The appointment process is also designed to ensure that Texas consumers are adequately and fairly served by the engineers appointed as qualified inspectors.

At the time TDI began the windstorm inspection and certification process in 1988, TDI windstorm inspectors certified 92 percent of the structures applying for certifications of compliance with the windstorm building code, while Texas licensed professional engineers inspected 8 percent of the structures. During the past eight years, this trend shifted and dramatically changed the services TDI provides. In FY 2006, TDI windstorm inspectors certified 18 percent of the structures applying for certifications of compliance with the windstorm building code, while TDI-appointed licensed professional engineers inspected 82 percent of the structures. This shift can be attributed to the adoption of stricter building codes based on an engineer design standard requiring the use of engineering plans and calculations. While TDI windstorm inspectors remain qualified to conduct inspections that do not require submittal of engineering analysis, the demand for this service has declined. With this change, TDI's focus moved from inspection and certification of structures to oversight of the appointed engineers. Consequently, TDI reduced the number of field offices from seven to four and reduced the number of windstorm inspectors on staff from approximately 50 to 19, while continuing to serve the 14 coastal counties along the Gulf of Mexico and certain specified areas in Harris County.

Increased inspections and certifications by appointed engineers have resulted in difficulty meeting established performance measure targets for Measure 3.1.1 op 1, Number of Windstorm Inspections Completed, Measure 3.1.1 oc 3, Percent of Windstorm Inspections resulting in an "Approved" Status Code and Measure 3.1.1 ef 1, Average Cost per Windstorm Inspection.

A goal of the Windstorm Inspection Program is to encourage coastal counties with a significant hurricane exposure to adopt and enforce the windstorm building code standards and to develop windstorm inspection and certification programs to ensure compliance with wind resistant provisions of the windstorm building code. As coastal counties adopt and enforce the windstorm building code, insurers

may be encouraged to write more wind and hail coverage in the coastal properties, thus lessening the exposure for TWIA.

An exception to obtaining Form WPI-8 from TDI is found in statute. The Texas Insurance Code, Section 2210.251 provides that wind and hail coverage may be obtained through TWIA without going through the inspection process if:

- the structure has been previously insured for wind by a company within the past 12 months
- the insurer either discontinued coverage for that structure or for the area in which it is located
- all other TWIA underwriting standards are met.

- 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.

Commercial Property Oversight

Commercial Property Oversight regulation is needed to assure that accurate loss costs are developed and that structures are properly classified in accordance with industry filed building rating schedules. On a monthly basis, the ISO provides a list to TDI of all specific commercial property surveys it has completed. TDI oversight selects a random sample of approximately 100 surveys from the ISO monthly report. TDI oversight inspectors make a physical inspection of the selected commercial properties for compliance with the ISO's filed SCOPES. TDI reports its findings, including errors, to ISO on the last working day of the month of inspection. ISO reports to TDI any contested error determinations. TDI reviews the challenged inspections and makes final determination that the error was validly assessed. ISO is required to furnish a corrected survey to the requesting insurer. If ISO's error rate is greater than 15 percent, ISO is referred to TDI's Enforcement Program for appropriate action such as an assurance of voluntary compliance. Commercial Property Oversight received no complaints in FY 2005 and FY 2006.

Additionally, TDI commercial property inspectors receive requests for determination of superior fire resistive/wind resistive construction for residential property from insurers, agents, TWIA and the Texas Fair Access to Insurance Requirements Plan Association. TDI physically inspects these properties for fire resistive/wind resistive construction as defined in the *Texas Commercial Property Rating Manual*. TDI advises the requestor of the proper rating classification of the inspected property.

Windstorm Inspections Section

The Windstorm Inspections Section is needed to ensure that structures are eligible for wind and hail coverage through TWIA. This process is done through inspection and issuance of a certificate of compliance, which indicates that a structure meets the applicable windstorm building code standards. The inspection is performed by a TDI windstorm inspector or a Texas licensed professional engineer appointed by TDI. The Texas licensed professional engineer is under the regulatory authority of the Texas Board of Professional Engineers.

In accordance with Texas Insurance Code, Section 2210.251, a notice for a windstorm inspection (Form WPI-1) must be submitted to the Windstorm Inspections Section prior to commencement of any construction. The WPI-1, which can be completed by any party (owner or another person acting on

behalf of the owner, contractor, insurance/real estate agent, engineer) is then submitted to the Windstorm Intake Office in Austin or to one of the four field offices located along the coast. Each of these offices can then enter the necessary information into the TDI system. A TDI windstorm inspector or a Texas licensed professional engineer appointed as a windstorm inspector will conduct the inspections during each major phase of construction to determine compliance with building code standards. A TDI windstorm inspector will provide documentation indicating status of inspections and if any deficiencies are present.

If the structure is compliant, Form IL-1 (used by TDI windstorm inspectors) or Form WPI-2-BC (used by appointed licensed professional engineers) is sent to TDI Windstorm Intake staff in Austin, notifying TDI that the inspection process is complete and meets the applicable building standards for the area in which it is located. Intake staff verifies the submitted paperwork (checking for accuracy of location, building code and type of construction), and issues a certificate of compliance, Form WPI-8. The WPI-8 is proof of eligibility for wind and hail coverage through TWIA and a copy of this form is submitted to TWIA.

If the structure is non-compliant, a TDI windstorm inspector and/or appointed licensed professional engineer discuss deficiencies and possible corrective measures. Once deficiencies have been corrected, the builder/roofer requests a re-inspection to certify the structure.

In instances where there has been a violation of TDI's inspection process rules by an appointed licensed professional engineer, a referral for disciplinary action is made to TDI's Enforcement Program. Sanctions may range from probation to revocation of the appointment as a qualified inspector.

Engineering Services Section

The Engineering Services Section is needed to evaluate and recommend applicable building code standards for TWIA building specifications; evaluate building products; oversee Texas licensed professional engineers appointed as qualified inspectors; and provide education on the windstorm building codes to consumers and professionals. The Engineering Services Section works with the Building Code Advisory Committee to evaluate and recommend proposed changes to the applicable building code standards for construction and repairs of structures located in the designated catastrophe area along the Texas coast. The commissioner may consider adoption of any proposed recommendations through the rule making process.

In conjunction with the adoption of applicable building codes, the Engineering Services Section evaluates building products for application in the windstorm inspection program and publishes evaluation reports for posting on the Windstorm Inspections section of the agency website.

The Commissioner of Insurance also has the authority to approve and appoint qualified inspectors to perform windstorm inspections and certifications. Oversight includes audits of structures to ensure that consistent and uniform windstorm inspections are being provided to the public by the appointed inspectors and to ensure that structures are being constructed to the applicable windstorm building code standards. The oversight inspection may be conducted in one of the following manners: the Engineering Services staff may conduct an audit of the appointed engineer's records at TDI; the Engineering Services staff may conduct an on-site inspection at the appointed engineer's place of employment or at the building or structure for which TDI has received an application for certificate of compliance or an inspection verification form; or the engineer appointed as a qualified inspector may be requested to attend an audit conducted at TDI. In the event qualified inspectors are not complying with the law, the commissioner has the authority to take enforcement action.

Loss Control Section

Loss control inspection regulation is needed to ensure that insurance companies provide required loss control and accident prevention services to aid commercial policyholders in reducing losses. TDI loss control inspectors conduct an evaluation of insurers writing commercial automobile liability insurance, professional liability insurance for hospitals, general liability insurance, professional liability for insureds other than hospitals, and medical professional liability insurance for insureds other than hospitals at least every two years. Audits are conducted through field audits by TDI loss control inspectors based on the procedures outlined in Texas Administrative Code, Title 28, Chapter 5. Audits may be performed at the company location, company representatives may come into TDI's Austin office, or audits may be conducted through correspondence. Companies are requested to provide TDI with a list of policyholder accounts by premium grouping, location, and loss ratio. The list of policyholder accounts must be submitted at least 45 days prior to the date set for the evaluation. TDI selects policyholder accounts to be audited. Worksheet forms are provided to the company to be completed on each account selected prior to the audit. TDI audits the loss control file for each selected policyholder account for determination of loss control requirements pursuant to Texas Insurance Code, Chapters 1903 and 1952. TDI issues a final report to the company, including recommendations and determination of adequacy. Companies receiving an adequate rating receive a certificate of compliance from TDI. Companies receiving an inadequate rating are referred to TDI's Enforcement Program for determination of compliance and appropriate action, such as levying a fine or sending warning letters. Loss Control Inspections received no complaints regarding loss control services in FY 2005 and FY 2006.

Amusement ride compliance regulation is needed to ensure that amusement rides operating in Texas meet safety requirements established by law and provide insurance protection to the consumer. Amusement ride owners/operators and their insurers file with TDI required annual inspections of amusement rides and general liability policies, along with a filing fee. TDI reviews these documents for statutory compliance and issues a certificate and a compliance sticker for each amusement ride or device. TDI also receives routing schedules for mobile ride operations, quarterly injury reports, and quarterly governmental action reports. If TDI is aware of any non-compliant amusement ride operations, these operations are referred to TDI's Enforcement Program and the appropriate law enforcement agency is notified for closure and possible fines. Loss Control did not receive any complaints about amusement ride compliance in fiscal years 2005 and 2006.

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.

Complaint information is not tracked for engineers or builders. However, a complaint may be submitted to either the Windstorm Inspections Section, including a windstorm field office, or the Engineering Services Section. Upon receipt of the complaint, staff reviews the information to determine TDI's level of involvement in resolving the complaint. If an oversight inspection is deemed justified based on the information provided, an engineer oversight file is established in the Engineering Section. The Windstorm Inspections Section manager, in conjunction with the Chief Engineer, will assign a TDI engineer or field inspector to perform an oversight inspection. The inspector will contact the appointed engineer, builder and homeowner (if applicable, the house may not be occupied), giving them notice that an oversight inspection will be conducted. A TDI engineer or field inspector will conduct the oversight inspection to determine windstorm building code compliance for insurance purposes. All involved parties are notified of the oversight inspection, dates of inspection and results of inspection. TDI works with engineers and builders to resolve non-compliance structural issues in an effort to make the structure eligible for wind and hail insurance coverage.

VII. Guide to Agency Programs

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

| | |
|--------------------------------------|--|
| Name of Program or Function | Property & Casualty Program, Title Division |
| Location/Division | William P. Hobby Building, Tower I, 6th Floor |
| Contact Name | Robert Carter, Deputy Commissioner |
| Actual Expenditures, FY 2006 | \$245,109.71 expended from TDI budget, plus title examinations expenses billed to the guaranty association |
| Number of FTEs as of August 31, 2006 | 5 appropriated FTEs, plus 14 allocated FTEs fully supported by the guaranty association |

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

The Title Division regulates policy forms and rates for title insurance and oversees licensing and financial examination of title agents. The Title Division consists of two sections.

- **Title Insurance Section**
Oversees licensing of title agents, direct operations, and escrow officers, responds to consumer complaints and inquiries, and assists with rule and rate hearings.
- **Title Examinations Section**
Conducts comprehensive, limited scope, and restricted compliance audits of title agents licensed in Texas. Title Examinations is an allocated area – all of the expenses are reimbursed by the Guaranty Association (GA). Thus, there is no impact on the TDI Budget from this area and it is frequently omitted from TDI's budget process and FTE count. The GA's Board of Directors approves the section's staffing level and annual budgets. (FY 2006 Budgeted FTEs: 16.0; 2/1/2007 FTEs: 16.0)

The Commissioner of Insurance sets and promulgates title companies' premium rates and forms. Industry-wide rates and forms are considered at biennial public hearings and at other times as the need arises. The biennial hearing consists of two phases: a hearing on proposed rules and forms and a contested hearing on rates. The rule and form hearing determines what forms the Commissioner of Insurance may adopt, and the rate hearing determines what rates will apply to the new and existing forms.

In the rule and form phase, interested parties, including industry, consumer groups, and Title Division staff submit proposals. These proposals become agenda items in the rule and form phase of the biennial hearing. Title's Deputy Commissioner presents staff's proposals at the hearing to the Commissioner of Insurance. The commissioner considers the proposals and then determines whether to adopt or reject the forms and rules for industry-wide use.

The rate phase of the biennial hearing is a contested case. The parties present their proposals and supporting evidence, and can cross examine witnesses of the other parties. During the rate hearing, the Commissioner of Insurance evaluates whether to raise or lower existing rates and determines what rates should apply to new or amended forms. Title's Deputy Commissioner is an advisor to the commissioner in this process. The Commissioner of Insurance considers the testimony and then determines whether to adopt or reject rates for industry-wide use.

Title insurance insures against past defects in title to real property, as opposed to insuring against future events. As a consequence, much of the underwriting function consists of title searches performed by agents using abstract plants maintained by agents to detect or potentially resolve existing title problems. An abstract plant is a geographically indexed copy of all documents (deeds, liens, etc.) relating to real property ownership in a particular county. Title insurance is not a casualty product. By its nature, title insurance arises out of real estate transactions, which are closed by escrow officers. Billions of dollars pass through title agent escrow accounts every year. Due to the complexity of real estate transactions and title insurance, many functions such as consumer complaint processing, license processing, and field examinations are handled by the Title Division.

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.

While the Title Division has not solicited feedback through formal surveys, informal industry feedback indicates satisfaction with regulatory effectiveness and efficiency. Federal authorities with the Government Accountability Office (GAO) solicited participation from Texas in its recent study of title insurance regulation; Texas was one of only six state participants.

For FY 2006 the Title Division processed just over 10,000 filings encompassing title agent and escrow officer license applications, renewal applications, cancellations, address changes, certifications, and continuing education filings. For FY 2006, 84 percent of Title filings were processed within the 15 day time frame. The target performance measure for processing complaints is 38 days. For FY 2006 the Title Division processed a total of 368 complaints with an average processing time of 30 days.

| 1.2.1 efficiency 1 – Average response time (days) to complaints* | | | | | |
|--|---|---------|---------|---------|---------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 27 | 26 | 27 | 32 | 30 |
| Annual Target | 38 | 38 | 55 | 55 | 38 |
| Percentage of Target | 71% | 68% | 49% | 58% | 79% |
| Analysis/Variance Explanation | Less than target is desirable for this measure. | | | | |

*Note: The above data is for the Title Division only.

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

History is presented in P&C's General Management response to Section VII.D.

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.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

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 Title Division consists of the Title Insurance Section and the Title Examinations Section, both overseen by a Deputy Commissioner. The Deputy Commissioner reports directly to P&C's Senior Associate Commissioner.

The Title Insurance Section has four staff. The goal is to process completed license applications within 15 days of receipt, and to resolve complaints within 38 days of receipt. The Deputy Commissioner and a senior technical advisor assist in triaging emergency matters as necessary.

The Title Examinations Section is headed by a director. Additional staff include an assistant director, audit coordinator and an administrative assistant in Austin, two auditors assigned to Central Texas, four auditors in North Texas, two auditors in West Texas, three auditors in Houston and one auditor in South Texas. The goal is to audit every title agent at least once every three years.

The Deputy Commissioner meets weekly with the managers of the Title Insurance Section and the Title Examinations Section to coordinate regulatory responses. For example, the Title Examinations Section may be in the process of citing a title agency for multiple violations at the same time that agency is seeking a license renewal from the Title Insurance Section. As another example, the Title Insurance Section may be processing multiple consumer complaints involving a title agency which has already been referred to the Enforcement Program for violations by the Title Examinations Section. These situations benefit from communication and a coordinated response within the Title Division.

Written processes for Title Division functions, where applicable, can be found in P&C's Appendix 3.

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 Title Examinations Section is an "allocated" area. The GA collects policy guaranty fees, which are charged on all title insurance policies issued in the state. The GA's mission is to avoid receiverships, so a portion of the guaranty fees is used to fund the Title Examinations Section. All expenses, including the salaries of all staff members and travel expenses, are billed to the GA on a quarterly basis (so that the state is reimbursed). There is no impact on the TDI budget from the Title Examinations Section, and thus it is generally omitted from the budget process and FTE count.

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

Consumer Protection (CP) Program

Traditionally, CP handles the processing of all complaints for the agency. However, most complaints related to property and casualty lines of insurance require specific technical knowledge and cannot be handled by the complaints processing staff available in CP. Title insurance complaints require specific knowledge of the title process. For this reason, the Title Division processes all title related complaints. The basic process used by the Title Division is similar to that used by CP, using the same internal database, general processing guidelines and timeframes.

Life, Health, and Licensing (LHL) Program

The Licensing Division of the LHL Program licenses the majority of insurance agent license types, excluding title agents and escrow officers which are processed in the Title Division. Title agent/escrow officer licensing is governed, for the most part, by different statutes of the *Texas Insurance Code*. Title agents are licensed by county, which differs from other line of insurance and therefore, title agent information is maintained in a separate database.

Financial Program

The Financial Program routinely conducts financial examinations of insurance companies to check their financial condition and code compliance. With regard to title insurance, the Financial Program has the authority to conduct Market Conduct Reviews of the title companies (underwriters). On occasion, title agents with solvency issues are referred to the Financial Program for rehabilitation. The agents may be placed in confidential supervision or administrative oversight. The Financial Program has special expertise, staffing and other resources for this function. The Title Examinations Section is focused on title agents and their compliance with TDI rules and regulations. The Title Examinations Section can detect solvency problems with agents and then report those solvency problems to the Financial Program for possible rehabilitation or other action. The Title Division coordinates with the Financial Program in referrals as well as in determining possible corrective actions.

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.

Consumer Protection Program

Title Division staff coordinates with CP to process complaints. Title insurance complaint activities rarely duplicate or conflict with other program areas. If Title Division staff receive a complaint or license application that should be processed by another program it is promptly forwarded to the appropriate area.

Life, Health, Licensing Program

Title's licensing activities rarely duplicate or conflict with other program areas.

Financial Division

In the event the Title Division finds cause to refer a company to the Financial Program for financial concerns, Title Division staff coordinate efforts with the Financial Program. Staff in both programs communicate regularly to remain updated on any issues regarding statutory non-compliance and agency efforts to resolve the insolvency issues.

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 Title Division provides support to various agencies, including the FBI, local prosecutors, the Texas Real Estate Commission, and the Texas Department of Savings & Mortgage Lending in cases involving mortgage fraud. The state agencies regulate real estate agents and lenders, respectively. Title Division staff can advise them of common patterns and/or parties seen in questionable deals. Staff can also provide technical assistance to the FBI and local prosecutors in mortgage fraud prosecutions, either as background (explaining the various closing documents) or as witnesses.

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.

Title insurance is not a traditional casualty product. A one time premium is paid to acquire protection against past title problems, not future occurrences, and for as long as the insured owns the property. Title insurance has a much lower ratio of claims paid to premiums collected than other lines of insurance. Most of the cost of title insurance is for maintenance of an abstract plant and trained personnel. The emphasis is on title research to uncover and deal with title problems already in existence at the date of the policy. Consumers are especially vulnerable to any unregulated closing costs, as a person only purchases a home a few times in a lifetime and the title insurance premium and other closing costs are small in comparison to the price of the house. Claims problems are complicated and fact specific, often involving complex real estate transactions. For these reasons, Title Division personnel should be highly trained and knowledgeable in title insurance and real estate transactions.

In some states, title insurance is unregulated. In other states, rates are subject to free market competition and a file and use system is used. In Iowa, title insurance is issued by the state. It is difficult to make meaningful comparisons to other states for several reasons: 1) in some states, the rate is all-inclusive while in other states unregulated additional charges are allowed, and 2) title insurance is driven by the laws of real estate conveyance and real estate titles, which also vary from state to state.

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.

In general, the functions of the Title Division are necessary due to the large amount of money flowing through escrow accounts (approximately \$528 billion in 2006), the potential for mortgage fraud and identity theft, the complexity of the coverage, and the limited knowledge of consumers who purchase title insurance on an occasional basis in a rushed atmosphere. The title industry is directly impacted by the fluctuating real estate market and interest rates. When the lending and real estate markets are active, claim payments are usually low; however, during real estate market dips, the market must be regulated to minimize the number of title agents and insurers who go out of business as claims increase and loans are in default. Rural markets are at special risk. If independent, rural agents go out of business, an entire county may be without a local title agent, with its attendant knowledge of local property records and transfers.

The Title Examinations Section conducts comprehensive compliance audits that include testing the agents' abstract plants, auditing the escrow accounting records and guaranty files, and reviewing the agents' financial statements. The auditors follow a written audit program that outlines the areas to be audited and complete worksheets that consist of checklists showing the items to review in each audited area. Staff audit the internal controls of the title agents. This encompasses government accounting standards issued by the GAO. If the audit reveals significant non-compliance, a follow-up audit is scheduled. The follow-up is usually done a few months later and the scope is limited to testing areas that were not previously in compliance. If compliance has not been achieved, a referral for disciplinary action is made to TDI's Enforcement Program. The Enforcement Program may take action ranging from small fines to license revocation.

Most consumer complaints are handled through correspondence by the Title Insurance Section. When a complaint is received staff enters it in the Complaint Inquiry System which assigns a specific complaint number. Title Division staff sends a copy of the complaint to the title company requesting a detailed response regarding each of the complainant's issues. The title company has two weeks to respond. Staff will then correspond with the complainant providing a copy of the title company's response. If a violation of rules and or regulations is found, the file may be referred to the Enforcement Program. When a field audit is needed, staff investigate.

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.

| Property & Casualty Program Title Division | | |
|---|----------------|----------------|
| Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2005 and 2006 | | |
| | FY 2005 | FY 2006 |
| Total number of regulated persons | 6,704 | 6,906 |
| Total number of regulated entities | 619 | 635 |
| Total number of entities inspected | 257 | 263 |
| Total number of complaints received from the public | 376 | 365 |
| Number of complaints pending from prior years | 33 | 24 |
| Number of complaints resolved | 393 | 368 |
| Average number of days for complaint resolution | 32 | 30 |
| Complaints resulting in disciplinary action: | 1 | 10 |

VII. Guide to Agency Programs

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

| | |
|--------------------------------------|--|
| Name of Program or Function | Property & Casualty Program, Workers' Compensation Classification and Premium Calculation Division |
| Location/Division | William P. Hobby Building, Tower I, 5th Floor |
| Contact Name | Nancy Moore, Deputy Commissioner |
| Actual Expenditures, FY 2006 | \$546,208.11 |
| 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 Workers' Compensation (WC) Classification and Premium Calculation Division regulates the insurance companies licensed to write workers' compensation insurance in Texas. The functions of this division are an integral part of the overall regulatory responsibility of TDI. Workers' compensation insurance has the potential to impact every employer in Texas. Therefore, it is imperative to ensure that insurers writing workers' compensation insurance follow the statutes and rules governing this line of insurance. This division is composed of the Classification Section, the WC Oversight Section and General Management. A brief description of each section's responsibility and corresponding statutory reference is shown below.

Classification Section

The Classification Section assists employers, agents and insurance companies in determining the proper workers' compensation classification for policyholders. The object of the classification system is to group employers into classifications so that each classification reflects the exposure common to those employers. Staff determine the proper classification for policyholders through either telephone inquiries or written correspondence, which is maintained as reference material for future classification reviews. Based on the description of the employer's operations, a classification is assigned. The classification is the basis of the calculation of workers' compensation premium. Texas Insurance Code, Section 2053.051 requires that the classification system be revised at least once every five years. The staff make recommendations to the Commissioner of Insurance of changes to be made to the classification system.

WC Oversight Section

The WC Oversight Section responds to many verbal and written inquiries and complaints pertaining to workers' compensation insurance. Inquiries and complaints are about a variety of topics, such as the cancellation of a workers' compensation policy, charges made on the final payroll audit, changes in ownership for an insured, the calculation of experience modifiers and whether workers' compensation coverage is mandatory in Texas.

This section also oversees the calculation of experience modifiers to ensure that the experience modifiers are calculated in accordance with the uniform experience rating plan. Texas Insurance Code, Section 2053.052 requires that the Commissioner of Insurance adopt a uniform experience rating plan. By rule insurers are required to calculate experience modifiers; however, most insurers contract with the National Council on Compensation Insurance (NCCI) to calculate experience modifiers. An experience modifier compares the actual experience of that insured with the experience expected for that size and type of insured. If the insured's experience is better than expected, the experience modifier results in a reduction

in premium. If the insured's experience is worse than expected, the experience modifier results in an increase in premium.

In addition, the WC Oversight Section also reviews workers' compensation policies to ensure that insurers have issued the policies and calculated the premium in accordance with the laws governing Texas workers' compensation. This includes:

- reviewing policies for small employers to be certain that those employers receive the premium incentive required under Texas Insurance Code, Sections 2053.251-2053.256;
- being certain that policyholders fully disclose to their insurers policyholders' ownership, changes of ownership, operations or payroll and policyholders' records relating to workers' compensation insurance pursuant to Texas Insurance Code, Section 2051.101; and
- determining whether an experience modifier should be amended based on proof that a change in a policyholder's management or operations is clearly designed to result in a probable reduction of the insured's loss experience pursuant to Texas Insurance Code, Section 2053.054.

The WC Oversight Section also handles the majority of the requests subject to the Public Information Act for this division. These requests are handled in accordance with TDI procedures established by Agency Counsel.

General Management

General Management staff handle administrative and management responsibilities for the division as well as other functions. Pursuant to Texas Insurance Code, Section 2052.002, staff review endorsement and form filings that require prior approval from the Commissioner of Insurance. The review and recommended approval of these various endorsements and forms make available to Texas policyholders workers' compensation insurance products that are reasonably priced and meet the insurance needs of the buying public. Staff also review the plan of operations and issue a certification for groups formed pursuant to Texas Insurance Code, Chapter 2055, which allows the group purchase of workers' compensation. In addition, staff administer loss incentive programs, such as retrospective rating plans, pursuant to adoption under Texas Insurance Code, Article 5.77.

All three sections of this division participate in reviewing rules, classifications, endorsements and forms contained in the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance*. Staff make recommendations for changes in the manual in the form of a petition to TDI's Chief Clerk's Office. Changes are adopted by the Commissioner of Insurance pursuant to the process outlined in Texas Insurance Code, Article 5.96. Staff are also responsible for updating the manual with the adopted changes. The manual is available for purchase from TDI and is available as a downloadable file from the TDI website.

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 WC Classification and Premium Calculation Division contributes to the agency performance measure for processing complaints. This division does not handle the volume of complaints that is handled by the Consumer Protection (CP) Program. However, the complaints handled by this division are very technical in nature and require the specific knowledge base of WC Classification and Premium Calculation Division staff. For FY 2006, staff resolved 85 complaints with an average response time of 32 days.

| 1.2.1 efficiency 1 - Average response time (days) to resolve complaints * | | | | | |
|--|--|----------------|----------------|----------------|----------------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 29 | 24 | 33 | 36 | 32 |
| Annual Target | 38 | 38 | 38 | 38 | 38 |
| Percentage of Target | 76% | 63% | 87% | 95% | 84% |
| Analysis/Variance Explanation | Performance has exceeded the target in spite of a 26 percent reduction in staff. Less than the target is desirable for this measure. | | | | |

*Note: The above data is for the WC Classification and Premium Calculation Division only.

For quality control purposes, the division has established a review protocol for handling complaints. Upon receipt of a complaint, the team leader for the WC Oversight Group assigns the complaint to one of the insurance specialists to process. The complaints are distributed on a rotation basis which allows complaints to be divided more evenly among the specialists and handled in the most efficient manner possible. Each closed complaint is independently reviewed by one of the specialists and the team leader to be certain that the complaint was resolved in the proper manner. This review also includes being certain that the Complaint Inquiry System (CIS) contains the correct information. All but two of the complaints processed by this division since FY 2002 have been resolved without making a referral to the Enforcement Program. This division continues to work with the Enforcement Program in regard to resolving these complaints and possibly taking disciplinary action against the insurance company for its actions. This shows that the process for resolving complaints used by this division is working and is effective.

Additionally, several of the employees in this division have received letters from complainants thanking the employees for the manner in which their complaint was handled, commenting on the timeliness of getting the complaint resolved and expressing their appreciation for the good outcome.

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

History is presented in P&C's General Management response to Section VII.D.

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.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

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 WC Classification and Premium Calculation Division is administered by the Deputy Commissioner, who reports directly to P&C's Senior Associate Commissioner. The division has two team leaders, one for the Classification Section and one for the WC Oversight Section. Both team leaders report directly to the Deputy Commissioner and are responsible for the day to day operations of each section. This includes monitoring the work performed to ensure the work is completed according to the established procedures and guidelines. The division cross trains all employees on its functions. Information is shared between the sections to promote consistent and accurate responses by all employees of the division.

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.

Traditionally, CP handles the processing of all complaints for the agency. However, some complaints related to property and casualty lines of insurance require specific technical knowledge and are more appropriately handled by P&C technical staff.

The WC Classification and Premium Calculation Division handles the workers' compensation complaints that do not involve job-related injuries. Complaints handled by this division are usually technical in nature and pertain to specific rules contained in the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance*. For example, a complaint handled by this division may involve the cancellation of a workers' compensation policy, the premium calculation made on the final payroll audit, the inclusion of certain payroll in calculating premium, exclusion of coverage for sole proprietors, partners or executive officers of a corporation, a policyholder not receiving the premium incentive for small employers, a change in the amount of schedule rating debit/credit charged on the policy or audit or a problem with a policy written on a deductible basis. The expertise of the staff of the WC Classification and Premium Calculation Division allows these technical complaints to be handled in an efficient manner.

Workers' compensation complaints received by TDI that relate to a claim of an injured worker are handled by the Complaint Resolution/Customer Service Group (CRCS Group) of the Division of Workers' Compensation (DWC).

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, CRCS, and the WC Classification and Premium Calculation Division have an agreement regarding the processing of workers' compensation related complaints. Regardless of the division the complaint originates in, the complaint is entered into CIS by the originating staff member. The complaint is then routed to the appropriate division for processing. CP provides the Deputy Commissioner of the WC Classification and Premium Calculation Division a report at the end of the month detailing which division closed complaints involving workers' compensation. This report is reviewed to ensure the appropriate division processed the complaint, depending on the nature of the complaint. If the complaint was not processed by the appropriate division, the entire complaint file is reviewed by the Deputy Commissioner of the WC Classification and Premium Calculation Division to determine if the complaint was handled properly and to be certain no additional action is necessary. In addition, communication among all divisions involved ensures that the process is working and that complaints are handled in the most efficient and timely manner possible.

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.

The regulation of workers' compensation insurance varies by state. In Texas, the Commissioner of Insurance adopts the standard workers' compensation policy language and also adopts the standard endorsements/forms that are available to be used on Texas workers' compensation policies. Texas Insurance Code, Section 2052 requires insurance carriers to use the endorsements/forms adopted by the Commissioner of Insurance, but does allow an insurance carrier to submit, for prior approval, endorsements/forms that may be necessary to implement a particular workers' compensation program offered by the carrier. The staff of this division develop any additional standard endorsements/forms that may be necessary. These endorsements/forms are approved through a public hearing and become part of the standard endorsements that are available for all insurance carriers to use. In addition, a petition can be filed with TDI's Chief Clerk's Office if an insurance carrier wants to propose adoption of a standard endorsement/form that would be available for use by all insurance carriers writing workers' compensation insurance. A public hearing is held in response to the filing of such a petition and the Commissioner of Insurance makes a decision as to whether the proposed endorsement/form should be adopted.

All states and the District of Columbia have a regulatory body similar to TDI that oversees or governs all insurance matters, including workers' compensation. In 38 states and the District of Columbia, the NCCI is the "rating authority." As the rating authority, NCCI makes filings on behalf of the insurance carriers with the departments in the NCCI states pertaining to rules, classifications and endorsements/forms. There are five states that are monopolistic states, meaning that one insurance company writes all workers' compensation insurance coverage for that state. The department in each of those states considers for approval the rules, classifications and endorsements/forms filed by NCCI and either adopts as filed or adopts with state-specific modifications. The remaining eight states, including Texas, are considered "independent" states. This means the department in each state determines independently what rules, classifications and endorsements/forms are applicable for that state.

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.

This division oversees the insurance companies writing workers' compensation policies to be certain that insurance companies are following the statutes and rules governing workers' compensation insurance. If these functions were not performed, policyholders could pay more for workers' compensation coverage and insurance companies could use endorsements and forms that are in violation of Texas statutes and rules.

P&C's Appendix 4 includes a copy of the procedures for the various functions performed, including the process for handling complaints against insurance companies.

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.

| Property & Casualty Program WC Classification and Premium Calculation Division Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2005 and 2006 | | |
|--|----------------|----------------|
| | FY 2005 | FY 2006 |
| Total number of regulated entities (From Company Licensing) | 601 | 613 |
| Total number of complaints received from the public | 86 | 89 |
| Total number of complaints initiated by agency | 0 | 0 |
| Number of complaints pending from prior years | 4 | 4 |
| Number of complaints found to be non-jurisdictional | 0 | 0 |
| Number of jurisdictional complaints found to be without merit (Unjustified) | 42 | 27 |
| Number of complaints resolved (Justified) | 40 | 58 |
| Average number of days for complaint resolution | 36 | 32 |

VII. Guide to Agency Programs

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

| | |
|--------------------------------------|---|
| Name of Program or Function | Property & Casualty Program, Actuarial Division |
| Location/Division | William P. Hobby Building, Tower I, 5 th Floor |
| Contact Name | J'ne Byckovski, Chief Actuary |
| Actual Expenditures, FY 2006 | \$1,017,036.45 |
| Number of FTEs as of August 31, 2006 | 12 |

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

The P&C Actuarial Division provides actuarial review of rate and rating plan filings to ensure rates and premiums are just, fair, reasonable, adequate, not confiscatory, not excessive and not unfairly discriminatory for the risks to which they apply. P&C Actuarial also reviews credit models for statutory compliance, conducts in-depth analyses of the Texas insurance market, and performs special studies to assist the agency and policy makers. The division assures that file and use rates meet statutory rate standards. Additionally, the P&C Actuarial Division makes recommendations on prior-approval rate filings submitted for statutorily created entities. This division is also responsible for the calculation of workers' compensation classification relativities and rating values as required by *Texas Insurance Code*, Chapter 2053.

The P&C Actuarial Division works closely with other P&C divisions and TDI programs to:

- monitor the marketplace to assist policy makers and consumers with insurance-related decisions
- improve the quality and reliability of data and market analysis projects
- draft administrative rules necessary to implement legislation
- address statutory concerns related to the rating of property and casualty lines of insurance.

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.

P&C Actuarial reviewed and analyzed rate filings submitted in response to Senate Bill 14, 78th Legislature, Regular Session, and this analysis culminated in mandated rate decreases for most of the top 32 insurance company groups writing homeowners insurance in Texas. In August 2003, TDI ordered the insurers to reduce homeowners rates by an average of 12.5 percent, for a total of \$511 million in rate reductions. All but one company has complied with the rate reductions, providing for the return of approximately \$350 million to policyholders. The remaining company appealed the rate reduction and the case is currently in litigation.

The review process mandated by SB 14 required the expertise and assistance of all members of P&C Actuarial staff. With the division focusing attention on filing review for SB 14, staff recognized a need to establish a system to manage all additional incoming work and rate filings. Consequently, a triage system was established where all incoming filings flowed through an assigned actuary for an initial review. This allowed staff to ensure that any filings requiring immediate action were attended to, despite the workload encountered by the SB 14 rate filings.

The success of this triage approach encouraged staff to examine processes for other ways to increase productivity and effectiveness. Staff ultimately reviewed and revitalized a previous system of assigning priority codes to incoming rate filings. The assignment of these priority codes is automated by the filings tracking system and based on the size of the company, the line of business, the proposed rate change, and whether the filer is a residual market entity or advisory organization. An enhanced triage process accompanies the assignment of priority codes. An actuary reviews the incoming rate filings to identify the proposed rate change and this information is entered into the filings tracking system. This allows the rate change to be factored into the priority code, and also ensures that this information is readily available for ad hoc reports requested by management, the Commissioner of Insurance, or legislative staff. Prior to this enhancement, staff had to manually review all pending filings to provide information for ad hoc reports, such as requests for information on average filed rate changes.

In 2006, the Chief Actuary and the Senior Actuary began using a weekly management report that provides information on the top priority filings received in the prior week. This allows management to be aware of the higher priority filings received for each line of business, their effective date, and the proposed rate change. Other reports were also developed to examine individual staff performance, including number of filings by priority code completed within selected time frames, the average number of days to complete such filings, and information on open filings. This tool allows management to monitor assignments, evaluate performance and offer additional guidance to staff as necessary.

The table below shows the number of filings received increased significantly following the passage of SB 14. In FY 2006, this number tapered off due to changes in company filing requirements, which were streamlined as a result of the adoption of the Filings Made Easy rule in FY 2005. This rule included provisions to allow insurers to make interline and dual filings. Interline filings allow a company to make one filing for multiple lines of business; TDI received 57 such filings in FY 2006. In the past, a separate filing would have been made for each line of business. Dual filings allow a company to use filed commercial rates for use in multi-peril policies without making a separate multi-peril filing, as was previously required.

| Based on KEY Measure: 1.1.2 oc 3 and Measure: 1.1.2 op 3 * | | | | | |
|---|--|----------------|----------------|----------------|----------------|
| Number of property and casualty rate filings completed and percent completed within 90 days | | | | | |
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Number of rate filings received | 4,433 | 5,216 | 5,212 | 5,038 | 4,636 |
| Number of personal lines filings received | 861 | 627 | 750 | 774 | 765 |
| Number of commercial lines filings received | 3,572 | 4,589 | 4,462 | 4,264 | 3,871 |
| Number filings completed | 3,990 | 4,061 | 4,483 | 5,402 | 4,298 |
| Analysis Explanation | SB 14 (2003) significantly impacted the volume of rate filings and the methods of review required. | | | | |

*The above data is for rate filings only.

SB 14 changed review of personal lines filings from a benchmark rating system and promulgated policy forms to a file and use system.. Today, rates are file and use, which allows greater flexibility of rating mechanisms and a wide variety of policy forms, such as new and innovative rating structures, including rates that vary by credit scoring or rates developed with the use of generalized linear models, or even well established pricing structures that were in place in other states. With the new rating structures and products being filed, division staff require a longer review and evaluation of the filings.

Additionally, division staff frequently receive letters from requesters thanking them for the professional and courteous manner in which they filled open records requests.

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

History is presented in P&C's General Management response to Section VII.D.

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.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

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.

P&C Actuarial is headed by a Chief Actuary who is a Fellow of the Casualty Actuarial Society. The Chief Actuary reports directly to P&C's Senior Associate Commissioner. The Chief Actuary works closely with the Senior Actuary, also a Fellow of the Casualty Actuarial Society. The actuarial team consists of six staff actuaries, one executive assistant and one administrative assistant. Of the six staff actuaries, two are Fellows of the Casualty Actuarial Society.

Texas utilizes both full time staff as well as consulting actuaries to monitor and/or review filings in accordance with state law. Most states have an actuarial department or consulting actuaries to carry out the assigned functions.

Credentialed actuaries at TDI and in the P&C Actuarial Division go through a rigorous process in order to become credentialed. The professional examination process to become a Fellow of the Casualty Actuarial Society can typically take seven to ten years and over 3,500 hours of study. The Casualty Actuarial Society also confers accreditation for an Associate of the Casualty Actuarial Society, which requires completion of a portion of the examination process. TDI actuaries expand their knowledge of actuarial principles through their efforts to become credentialed and through internal and external professional networking. In order to maintain accreditation as a member of the Casualty Actuarial Society, actuaries must meet a minimum number of biennial hours of continuing education.

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.

Life, Health, and Licensing (LHL) Program

LHL's Life/Health Actuarial Section performs some functions similar to the P&C Actuarial Division, but for differing lines of insurance.

Financial Program

The Financial Actuarial Division performs some functions similar to the P&C Actuarial Division. Both sections remain current on the market conditions of the property and casualty insurance industry. The annual financial statements submitted by property and casualty companies are reviewed by both sections. Size, structure and concentration of business and financial health of companies can be determined from these annual statements. The Financial Actuarial Division uses this information for the purpose of solvency review. The P&C Actuarial Division uses this information for the purpose of evaluating the appropriateness of a company's rate level.

Office of the Public Insurance Counsel (OPIC)

OPIC reviews selected rate filings for property and casualty insurance, while the P&C Actuarial Division reviews all rate filings for property and casualty insurance. OPIC acts as an advocate for insurance consumers, and is privy to filings by statute. However, OPIC makes no decisions regarding the filings reviewed.

Other State Department of Insurance

Rate regulation of property and casualty lines of insurance not only varies by state, but by line of insurance. In Texas, the rates for most lines of insurance are file and use.

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.

Life, Health, and Licensing Program

P&C Actuarial functions separately from LHL's Life/Health Actuarial Section. Each of these sections is charged with a different line of insurance regulation, and services do not overlap.

Financial Program

The P&C Actuarial Division functions separately from the Financial Actuarial Division. Each of these sections is charged with a different aspect of insurance regulation, and services do not overlap.

Office of Public Insurance Counsel

OPIC was created to represent the interests of insurance consumers in Texas. Once a division of TDI, OPIC became a separate agency in 1991 as a result of insurance reform legislation. Acting as an advocate for insurance consumers, primarily before TDI, OPIC reviews and provides comments to TDI on selected rate filings and may recommend disapproval of rate filings. For purposes of consumer protection, OPIC has certain responsibilities that may overlap those of TDI, including reviewing selected rate filings for property and casualty insurers.

Other State Department of Insurance

Rates are set by each state; however, certain filings require multi-state review and coordination.

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.

In general, rate regulation of the property and casualty industry is needed to ensure that rates, rating plans, and changes in such are just, fair, reasonable, adequate, not confiscatory, not excessive, and not unfairly discriminatory for the risks to which they apply. There is harm when consumers are overcharged for their insurance needs. Furthermore, if rates are inadequate, the public is harmed by companies that become insolvent.

The P&C Actuarial Division also performs some market analysis for the various lines focusing on annual statements and statistical plan data to monitor industry loss ratios, profitability by line of insurance, market concentrations, and market conditions of major lines of insurance. These measures identify companies that require further analysis of their rates, and can result in requests for the selected companies to submit rate filings justifying the current rates or proposing to revise rates. In instances where rates are not justified or do not meet the applicable statutory rate standards, a referral for disciplinary action is made to the Enforcement Program. Possible actions against non-compliant companies include disapproval of rate and/or fines.

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 | Property & Casualty Program, Data Services Division |
| Location/Division | William P. Hobby Building, Tower I, 5th Floor |
| Contact Name | Gary Gola, Director |
| Actual Expenditures, FY 2006 | \$387,094.69 |
| Number of FTEs as of August 31, 2006 | 8 |

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

The Data Services Division supports the mission of P&C through a variety of activities and functions. The major activities performed by Data Services are as follows:

- provides data analysis
- collects information through statistical plans, special calls and surveys
- produces data compilations, including data for P&C Actuarial Division rate review
- collects and maintains statistical data
- produces statistical reports for the Legislature, the agency, the public and the insurance industry
- oversees TDI's designated statistical data collection agents
- administers and assists with the collection and review of underwriting guidelines
- supports the Title Division by:
 - collecting information specified in the Title statistical plan
 - auditing reports submitted by both agents and underwriters, and
 - producing annual reports for use by the public, the industry, and parties to rate hearings.
- obtains data through downloads from the National Association of Insurance Commissioners (NAIC) computer database, and
- maintains the HelpInsure.com online bulletin board, which assists in matching consumers looking for homeowners insurance with agents writing homeowners insurance.

Data collection and compilation activities of this division include:

- Quarterly Legislative Report on Market Conditions, based on premium and loss data collected in the Quarterly Call for Experience
- Texas Liability Closed Claim Report, which includes data on the final disposition of Texas claims of more than \$10,000
- Texas Title Insurance Agents and Underwriters Reports, which collect information on income and expenses in the title insurance industry
- disallowed Expense Report, which collects data on insurer expenses that, by statute, may not be considered in the determination of rates
- the State of Texas Property and Casualty Insurance Experience by Coverage and Carriers (often called the Texas Statutory Page 14 Report)
- the Insurance Expense Exhibits, which are compilations of data downloaded from NAIC
- providing data for calculating assigned risk automobile quotas for the Texas Automobile Insurance Plan Association (TAIPA)
- providing data for calculating insurer participation levels in the Texas Windstorm Insurance Association (TWIA), and

- providing data for pricing newly proposed or adopted residential property and automobile endorsements.

Additionally, Data Services oversees designated statistical data collection agents for compliance with quality standards in the collection of Texas data. Currently, the National Council on Compensation Insurance (NCCI) collects workers' compensation data; the Texas Insurance Checking Office (TICO) collects private passenger automobile data; and the Insurance Services Office (ISO) collects commercial lines data. Oversight includes modifying statistical plans, ensuring compliance with TDI performance standards, overseeing statistical agent audits, resolving problems between reporting companies and the statistical agents and ensuring the delivery of data for regulatory purposes. Workers' compensation data is collected as specified by the Texas Workers' Compensation Statistical Plan, the Texas Detailed Claim Information Statistical Plan and the Texas Workers' Compensation Financial Call Plan, while private passenger automobile and commercial lines data are collected in accordance with the Residential Property Statistical Plan, the Private Passenger Automobile Statistical Plan and the Commercial Lines Statistical Plan.

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 Data Services Director monitors reporting deadlines and uses these to determine if functions are being performed as required. Some of these deadlines include providing:

- data to TAIPA on a quarterly basis for calculating quota assignments.
- premium data to TAIPA/TWIA on an annual basis for calculating assessments.

Data and analysis produced by the Data Services Division have been used in efforts of tort reform, rate rollbacks, in response to legislative inquiries and research, and for market monitoring. The information gathered and analyzed is used to help policymakers, including the legislature, make decisions and anticipate how those decisions may affect the market. Recent examples are the medical malpractice reforms enacted by the Legislature in 2003, addressing insurance availability along the coast in relation to wind coverage, and addressing policy coverage as a result of the mold crisis in 2002.

| 1.1.1 output 5 - Number of TDI calls to insurance industry for data | | | | | |
|--|---|----------------|----------------|----------------|----------------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 14 | 15 | 21 | 17 | 19 |
| Annual Target | 14 | 14 | 14 | 14 | 20 |
| Percentage of Target | 100.00% | 107.14% | 150% | 121.43% | 95.00% |
| Analysis/ Variance Explanation | Targets are based on "standard" data calls that are regularly scheduled. When the actual performance greatly exceeds that target it is usually related to major changes in the insurance markets. | | | | |

| 1.1.3 explanatory 3 - Number of underserved markets identified for residential property insurance | | | | | |
|--|---|----------------|----------------|----------------|----------------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 411 | 411 | 411 | 411 | 411 |
| Annual Target | 411 | 411 | 411 | 411 | 411 |
| Percentage of Target | 100% | 100% | 100% | 100% | 100% |
| Analysis/ Variance Explanation | These markets are set to give incentives to the insurance industry to write business where it is historically difficult for consumers to find coverage on their own. These areas are not changed very often in order to offer some stability and to allow time for the market to adjust to their needs. | | | | |

| 1.1.3 explanatory 4 - Number of underserved markets identified for automobile insurance | | | | | |
|--|---|----------------|----------------|----------------|----------------|
| | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| Actual Performance | 387 | 387 | 387 | 387 | 387 |
| Annual Target | 387 | 387 | 387 | 387 | 387 |
| Percentage of Target | 100% | 100% | 100% | 100% | 100% |
| Analysis/ Variance Explanation | These markets are set to give incentives to the insurance industry to write business where it is historically difficult for consumers to find coverage on their own. These areas are not changed very often in order to offer some stability and to allow time for the market to adjust to their needs. | | | | |

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

History is presented in P&C's General Management response to Section VII.D.

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.

Persons or entities affected are presented in P&C's General Management response to Section VII.E.

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.

Data Services is led by a Director who oversees one statistician, two program specialists and two research specialists. The Director reports to P&C's Senior Associate Commissioner. In addition to fulfilling a supervisory role, the Director shares in the tasks assigned to the division. Data Services staff are cross-trained on various data collection efforts. While there is generally a lead person assigned to a task, it is not uncommon for two or three staff to participate in a data collection effort at any given time to assure compliance with due dates for various submissions and reports.

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.

Workers' Compensation Research and Evaluation Group

The Workers' Compensation Research and Evaluation Group (REG) serves as a resource for the Commissioner of Insurance on workers' compensation issues. One of the REG's functions includes conducting professional studies and objective research related to issues such as the delivery of benefits to injured employees, the rehabilitation and reemployment of injured employees, and employer participation trends in the workers' compensation system. One source of information made available to the REG is experience collected by the Data Services Division via the Workers' Compensation Statistical Plan. The REG is not involved in the day to day details of collecting, editing, and seeking corrections of this data or in managing the designated statistical agent, but it is an end-user of the information.

Life, Health, and Licensing Program

The Life, Health and Licensing Program may provide data collection and reporting services similar to the Data Services Division, but its information is specific to life and accident and health products whereas the P&C Data Services Division is specific to property, casualty, and liability lines of insurance. These products have traditionally been regulated by separate programs due to the differences in expertise and fields of study that are involved.

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

The data collected by the division is unique to Texas and not available elsewhere. While TDI cannot ensure other entities do not collect this same information, no other entity has the statutory authority to do so. As insurers are very protective of their data, it is unlikely they would provide data to anyone who does not have the authority to require it. The Data Services Division is not aware of any other entity that has the ability or authority to collect data as detailed or comprehensive as that collected by TDI.

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.

For market analysis purposes, TDI promulgated statistical plans to be used by each insurer to record and report premium, loss and expense experience, as well as other data, for each line of business. As authorized by Texas Insurance Code, Section 38.202, Texas designates statistical agents for the "Texas Statistical Plan for Residential Risks," the "Texas Private Passenger Automobile Statistical Plan," and the "Texas Commercial Lines Statistical Plan." Presently, the designated statistical agents are TICO, ISO, and NCCI.

Texas designates statistical agents and promulgates statistical plans and data calls in order to customize collected information to meet TDI needs. This method allows the flexibility to gather data that can directly meet the needs of the Texas insurance market. Most states use NCCI to calculate workers' compensation premiums in accordance with its manual rules. Exceptions include Texas, California, New York and Michigan. Similar to Texas: California produces an annual market data report using the NAIC annual statement data; Illinois collects closed claim information, but only for the medical malpractice line of business; and New Mexico collects a significant amount of income and expense information from title agents and underwriters to use in setting promulgated rates. For market analysis, most other states use national advisory organizations such as ISO or Independent Statistical Services, Inc. to access statistical experience.

In Texas, designated statistical agents are authorized to perform activities required to ensure that companies comply with the reporting requirements for the statistical plans as adopted by the Commissioner of Insurance. While this is an outsourced function, payments do not come directly from TDI. Instead, insurers licensed and writing in Texas pay fees directly to the designated statistical agents. Companies that do not comply with reporting requirements pay penalties to the statistical agent other than NCCI as an incentive to bring them into compliance, as well as to offset expenses incurred in the process of collecting delinquent and incorrect experience. NCCI does not charge penalties to delinquent companies; instead, companies are subject to quality incentives where their fees can increase or decrease based on the quality of reporting. TDI established performance standard agreements with each statistical agent that specify deliverables. Data Services regularly receives reports from the statistical agents that are used to determine if responsibilities are being met.

Insurers submit quarterly and annual statements to NAIC. However, it is not possible to distinguish Texas-only information by line of insurance in the NAIC reports. Therefore, the Data Services Division collects Texas data by line of insurance to compile the mandated Quarterly Legislative Report on Market Conditions. This report allows TDI and the Legislature to monitor Texas market changes for each line of insurance. Data is collected for several commercial lines of insurance as well as private passenger automobile and homeowners. In addition, the Quarterly Legislative Data Call requests information on the workers' compensation residual markets and participation in workers' compensation deductible plans, which are not reported on the NAIC quarterly statements.

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.