CREDIT UNION COMMISSION MEETING

Credit Union Department Building
914 East Anderson Lane
Austin, Texas

February 20, 2015

AGENDA

In the event the Commission does not finish deliberation of an item on the first day for which it was posted, the Commission might recess the meeting until the following day at the time and place announced at the time of recess.

Meeting Accessibility: Under the Americans with Disabilities Act, the Credit Union Commission will accommodate special needs. Those requesting auxiliary aids or services should notify Linda Clevlen, Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752, (512) 837-9236, as far in advance of the meeting as possible.

A

CALL TO ORDER

TEXAS CREDIT UNION COMMISSION MEMBERS

- ***Manuel "Manny" Cavazos, Chair***
- ***Gary L. Janacek***
- ***Sherri B. Merket***
- ***Allyson "Missy" Morrow***
- ***Rob Kyker***
- ***Kay Stewart***
- ***Gary D. Tuma***
- ***Vik Vad***
- ***A. John Yoggerst***

Legal Counsel

- ***Joe H. Thrash***

Staff

- ***Harold E. Feeney***
- ***Robert N. Baxter***
- ***Stacey L. McLarty***
- ***Isabel Velasquez***

FUTURE CREDIT UNION

COMMISSION MEETING DATES

Friday, June 19, 2015

Friday, October 16, 2015

Friday, February 19, 2016

All regular scheduled meetings will begin at 8:00 a.m. unless notified differently.

If anyone has conflicts with the proposed dates, please contact Isabel Velasquez at (512) 837-9236.

B

CREDIT UNION COMMISSION MEETING MINUTES

Draft copies of the minutes for the October 17, 2014 meeting, and the corresponding follow-up action report, are located under **Tab B.**

RECOMMENDED ACTION: The Department requests that the Commission approve the minutes as presented.

RECOMMENDED MOTION: I move that the minutes of the Commission's regular meeting of October 17, 2014 be approved as presented.

CREDIT UNION COMMISSION
MEETING MINUTES
OCTOBER 17, 2014

A. CALL TO ORDER - ASCERTAIN A QUORUM – Chairman Manuel "Manny" Cavazos declared that a quorum was present and called the meeting to order at 8:08 a.m. in the conference room of the Credit Union Department office, Austin, Texas, pursuant to Chapter 551 of the Government Code. Other members present included Gary Janacek, Allyson Morrow, Sherri Merket, Gary Tuma, Kay Stewart, Vik Vad, and John Yoggerst (arrived at 8:15 a.m.). Member Rob Kyker was absent due to a scheduling conflict. Assistant Attorney General Nancy Fuller was in attendance to serve as legal counsel. Representing the Department staff were Harold E. Feeney, Commissioner, Robert N. Baxter, Acting Deputy Commissioner, and Stacey McLarty, Assistant Commissioner and General Counsel. Chairman Cavazos appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted **(October 7, 2014, TRD#2014007244).** Without objection, the Chair reserved the right to rearrange agenda items as necessary.

❖ **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Chairman Cavazos invited public input on matters that were not scheduled items on today's agenda for possible future consideration by the Commission. No public comments were received.

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES** – Chairman Cavazos inquired if there were any requests or motions to excuse an absence. Mrs. Merket moved to excuse Rob Kyker from the

Commission meeting on October 17, 2014. Mrs. Morrow seconded the motion, and the motion was unanimously adopted.

B. RECEIVE MINUTES OF PREVIOUS MEETING (June 20, 2014)

The Chairman referred the members to the draft minutes contained in the agenda packet. Mr. Janacek moved for approval of the minutes of June 20, 2014 as presented. Mr. Vad seconded the motion, and the motion was unanimously adopted.

C. COMMUNICATIONS

The Chairman referred members to the correspondence contained in the agenda packet. Commissioner Feeney called attention to the Sunset Staff Study on the Self-Directed Semi-Independent Status of State Agencies which has been submitted to the Sunset Advisory Commission. Mr. Feeney reported that the study contains four recommendations: (1) Require the LBB to develop and administer a process to obtain SDSI status and for overseeing SDSI agencies; (2) Expand reporting and monitoring requirements of SDSI agencies; (3) Place all current SDSI agencies under the SDSI Act in the Government Code; and (4) Proposes a moratorium on expanding SDSI status to other agencies during the upcoming session.

He indicated that some of the more substantive changes that could impact the Department are: (1) SDSI agencies would be required to provide standardize budget information to the LBB; (2) the agency's operating plan would be required to cover a period of two fiscal years; (3) Reporting requirements and controls that apply to SDSI agencies would be expanded; (4) the State Auditor would be required to perform a financial and performance audit of each SDSI agency every six years; (5) the submission date for the annual SDSI report would be changing to November 20th; (6) All administrative penalties would be deposited directly into the State's General Fund; and (7) LBB would be given authority to charge a fee for the monitoring and oversight of SDSI agencies.

Chair Cavazos acknowledged Member John Yoggerst's arrival.

Mr. Feeney also provided notice, in accordance with Rule 97.113, that the operating fee assessment was waived for the existing credit union that is in the process of being liquidated and that he partially waived the first installment of the operating fee for the credit union that was recently placed in conservatorship.

D. COMMITTEE REPORTS

Commissioner Evaluation Committee – Allyson Morrow, Chair of the Committee briefly discussed the process and procedures to be used during this year's evaluation of the Commissioner. She further indicated that the actual evaluation would be discussed during the Executive Session.

E. UNFINISHED BUSINESS

(a) Discussion, Consideration, and Possible Vote to Adopt the Proposed Amendments to 7 TAC Section 91.502 Concerning Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures. Commissioner Feeney indicated that the Commission had previously approved for publication and comment certain proposed amendments to Rule 91.502. No written comments were received. He noted that the amendments clarify that meeting fees which are not excessive may be paid to directors, honorary directors, advisory directors, and committee members. The proposal also requires annual disclosure of meeting fees to the membership and grants enforcement authority to the Department to limit or prohibit excessive meeting fees.

After a short discussion, Mr. Janacek moved that the Commission adopt the proposed amendments to **7 TAC Section 91.502** as previously published in the *Texas Register*. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(b) Discussion, Consideration, and Possible Vote to Adopt the Proposed Amendments to 7 TAC Section 91.704 Concerning Real Estate Lending. Commissioner Feeney noted that the Commission had previously approved for publication and comment certain proposed amendments to Rule 91.704. No written comments were received. He indicated that the amendments clarify maturity limits for certain real estate loans.

After a brief discussion, Mr. Vad moved that the Commission adopt the proposed amendments to **7 TAC Section 91.704** as previously published in the *Texas Register*. Mr. Tuma seconded the motion and the motion was unanimously adopted.

(c) Discussion, Consideration, and Possible Vote to Adopt the Proposed Amendments to 7 TAC Sections 153.1 (Definitions), 153.5 (Three Percent Fee Limitation: Section 50(a)(6a)(E), 153.15 (Location of Closing: Section 50(a)(6)(N), and 153.51 (Consumer Disclosure: Section 50(g)). Commissioner Feeney explained that based on the recent Texas Supreme Court decision the Commission and the Finance Commission had jointly approved for publication and comment certain proposed amendments to 7 TAC Sections 153.1, 153.5, 153.15 and 153.51. One written comment on the proposed amendments was received. He briefly highlighted the proposed amendments and encouraged the Commission to adopt the proposal as published.

After a short discussion, Mrs. Merket moved that subject to the adoption of the same proposed amendments by the Finance Commission that the Commission adopt the proposed amendments to **7 TAC Sections 153.1, 154.5, 153.15 and 153.51** as previously published in the *Texas Register*. Mr. Janacek seconded the motion and the motion was unanimously adopted.

(d) Discussion, Consideration, and Possible Vote to Adopt the Proposed Amendments to 7 TAC Section 91.209 Concerning Call Reports and Other Information Requests. Commissioner Feeney noted that the Commission had previously approved for publication and comment proposed amendments to 7 TAC Section 91.209. No written comments were received. He indicated that the proposed amendments increase the Commissioner's flexibility to assess penalties when a credit union fails to file a timely and accurate quarterly call reports.

After a brief discussion, Mr. Yoggerst moved that the Commission adopt the proposed amendments to **7 TAC 91.209** as previously published in the *Texas Register*. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(e) Discussion of the Chair's Appointments to the Commission's Two Standing Committees (Rules and Commissioner Evaluation). Chairman Cavazos noted that as stipulated in Commission Policy, the Chair is responsible for appointing members to the two committees established by the Commission. He indicated that the minutes of the meeting should reflect the membership of the Commission's two standing committees will remain unchanged; however, he was rotating the Chair on the Rules Committee and designating a Vice Chair for the Commissioner Evaluation Committee. Accordingly, Committee appointments are as follows:

Rules Committee:

Sherri Merket, Chair
Rob Kyker, Vice Chair
Missy Morrow
Kay Stewart
John Yoggerst

Commissioner Evaluation Committee:

Missy Morrow, Chair
Vik Vad, Vice Chair
Rob Kyker
Sherri Merket
Gary Tuma

(f) **Discussion and Consideration of the Department's FY 2014 Financial Results and the FY 2015 Budget.** Commissioner Feeney provided an overview of the Department's FY 2014 financial statements, highlighting total revenues and expenditures. There was discussion among members with Mr. Feeney addressing questions.

After a lengthy discussion, it was the consensus of the members that significant budget variances should be itemized in future reports. No formal action was taken by the Commission.

(g) **Discussion and Consideration of Current Status of the Financial Services Market and the Effect on Credit Unions Regulated by the Department.** Commissioner Feeney highlighted various ratios and other financial statistics from the June 30, 2014 call report cycle. Mr. Feeney pointed out that the Department has a growing concern with some smaller credit unions getting involved in direct auto referral programs with independent dealers. He noted that the Department recognizes the benefits of a well-run loan referral; however an improper managed or loosely controlled program can quickly lead to unintended risk exposure. He indicated that examiners would be assessing whether credit unions involved with these types of programs have adequately planned for, and are monitoring and controlling the lending activity.

There was discussion among members with Mr. Feeney addressing questions. No formal action was taken by the Commission.

F. NEW BUSINESS

(a) Discussion, Consideration, and Possible Vote to Readopt 7 TAC Part 6, Chapter 95 Relating to Insurance Requirements in its Entirety. Commissioner Feeney noted that Section 2001.39, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. At its June 2012 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff reviewed 7 TAC Part 6, Chapter 95 in its entirety and has recommended that no changes be made at this time. No written comments were received regarding the review.

After a short discussion, Mr. Tuma moved that the Commission find that the reasons for adopting the rules contained in **7 TAC Part 6, Chapter 95** continue to exist and that all of these rules be readopted without change. Mrs. Merket seconded the motion and the motion was unanimously adopted.

(b) Discussion, Consideration and Possible Vote to Readopt the Department's Equal Employment Workforce Diversity Plan. Commissioner Feeney noted that Section 15.313, Finance Code, requires the Commission to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity. He indicated the Commission originally approved the Plan back in 1997 and that the Plan covers a 12-month period, and therefore, must be ratified annually. There was discussion among the members with Mr. Feeney addressing questions.

Mrs. Morrow moved that the Commission readopt the Department's Equal Employment and Workforce Diversity Plan with the changes as recommended by Staff. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(c) Discussion of the On-Line Tools Being Used by the Department to Solicit Feedback from Credit Unions and Other Interested Persons. Commissioner Feeney noted that at the June Commission meeting, questions were raised concerning the methods and procedures used by the Department for obtaining credit union feedback. General Counsel Stacey McLarty provided an overview of the various tools that are available for credit unions to provide feedback. There was discussion among members with Ms. McLarty and Mr. Feeney addressing questions.

Chairman Cavazos opened the floor to the public for discussion.

✓ **Ed Zingleman - Texas Dow Employees Credit Union.** Mr. Zingleman expressed concern with the high percentage of credit unions indicating that the report of examination was not easily understood.

✓ **Melodie Durst, Executive Director, Credit Union Coalition of Texas.** Mrs. Durst noted that the Coalition's members don't seem to have significant concerns with the Department; however, being able to provide feedback anonymously is considered very important. She inquired if it were possible for Survey Monkey to produce a report directly to the Department without the Department having access to actual individual responses.

- ✓ **Courtland Crouchet – Senior Vice President and Chief Risk Officer – Texas Dow Employees Credit Union –** Mr. Crouchet complimented Ms. McLarty and the Department on the complaint process. He indicated that the process seems to be fair, fast and easy.

- ✓ **Jeff Huffman, Vice President Government Relations, Cornerstone Credit Union League** – Mr. Huffman indicated that the more credit unions and the Department communicate the better the system works for all involved. He suggested that the Commission may want to have a policy to prevent the Survey Monkey "switches" from being turned on or off to protect credit union anonymity.

No formal action was taken by the Commission.

The Commission took a short recess at 10:10 a.m., and reconvened at 10:17 a.m.

G. EXECUTIVE SESSION -- Mr. Cavazos stated that the Commission would be entering into Executive Session as provided under Section 551.074 of the Government Code, for the purpose of discussing certain personnel issues: (a) The appointment of Robert Baxter as the new Deputy Commissioner and (b) The Commissioner's Annual Performance Evaluation and FY 2015 Remuneration, Performance Targets and Evaluation Form. The Commission entered into Executive Session at 10:18 a.m. and reconvened in open session at 11:00 a.m.

Chair Cavazos noted that no final action, decision, or vote on matters deliberated during the executive session was made by the members.

H. OTHER BUSINESS. Vote on Matters Discussed in Executive Session:

1. **Consideration and Possible Vote to Approve FY 2015 Performance Targets, Remuneration, and Evaluation Form for the Commissioner.** Mrs. Morrow made a motion that Commissioner Feeney's salary be increased by 7% to recognize performance and to make an equity adjustment to bring the salary closer to the current market levels. In addition she moved to maintain the current performance targets and evaluation form for FY 2015. Mr. Janacek seconded the motion and the motion was unanimously adopted.

2. **Consideration and Possible Vote to Approve the Appointment of Robert Baxter as the new Deputy Commissioner.** Mr. Tuma made a motion to approve Robert N. Baxter as the new Deputy Commissioner. Mr. Yoggerst seconded the motion and the motion was unanimously adopted.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chairman Cavazos adjourned the meeting at 11:05 a.m.

Manuel "Manny" Cavazos
Chair

Isabel Velasquez
Recording Secretary

Distribution:

Legislative Reference Library

FOLLOW-UP ACTION REPORT
CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 01-13-15)
UNFINISHED BUSINESS		
October 17, 2014		
7 TAC Section 91.502 Director Fees and Expenses	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 10-31-14
7 TAC Section 91.704 Real Estate Lending	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 10-31-14
7 TAC Section 91.209 Call Reports and Other Information Requests	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 10-31-14
7 TAC Sections 153.1, 153.5, 153.15, and 153.51 Home Equity Lending	Published in *Texas Register* as adopted interpretations	Published in *Texas Register* on 12-26-14
Chapter 95 Share and Depositor Insurance Protection	Published in *Texas Register* as readopted rules	Published in *Texas Register* on 10-31-14

C

COMMUNICATIONS

All other communication items relevant and material to the meeting are included under the appropriate tabs.

RECOMMENDED ACTION: No formal action is anticipated to be taken by the Commission. The correspondence is included for your consideration and direction.

OFFICE OF THE GOVERNOR

February 4, 2015

To: All State Agency Heads

Re: Governor's Office Budget and Policy Contacts

The Budget and Policy Office advises Governor Abbott on all matters affecting your agency, and our staff is here to support you and your staff in any way they can. To that end, we are providing you with a list of updated contacts for each agency, which can be found here (http://gov.texas.gov/bpp/agency_assignments).

Responsiveness is of the upmost importance to Governor Abbott, and we hope you will find this team of budget and policy advisors to be fully responsive to your needs. We also ask for your priority consideration as they work with you and your staff on various matters.

Again, our office will often have inquiries of you, and it's important for you to see us as resources for your needs as well. Never hesitate to ask our advisors and analysts for assistance. You can contact any of us at 512-463-1778 or at the appropriate email address provided in the attachment.

We look forward to working with you.

Kara Belew
Budget Director

Drew DeBerry
Policy Director

Meghan Weller
Deputy Budget Director

Steven Albright
Deputy Policy Director

Constance Allison
Deputy Policy Director

OFFICE OF THE GOVERNOR

GREG ABBOTT

January 28, 2015

To: All State Agency Heads

Re: Transparency in State Agency Contracting and Procurement

As leaders in state government, we must never forget that we work for the people of Texas, whose hard-earned tax dollars make all our work possible. Our duty to be good stewards of the taxpayers' money is not just a statutory or public policy goal—it is a moral obligation that we owe to the millions of Texans whose precious resources have been entrusted to us.

One simple, effective way state agencies can both maximize value for the taxpayers—and improve the public's confidence in their government—is to utilize a competitive bidding process to purchase goods and services whenever that is possible. As Governor, I must ensure that all state agencies are committed to maximizing value and utilizing open and transparent contracting processes.

With that very important goal in mind, I am strongly supporting contracting reform legislation that Sen. Jane Nelson announced Monday. If enacted, SB 353 would impose meaningful reforms on state contracting processes that would improve transparency and foster accountability in the contracting process. Specifically, Sen. Nelson's legislation would, among other requirements:

- Require public disclosure of all no-bid contracts and a public justification for using such a procurement method;
- Require that all agency employees involved in procurement or contract management disclose any possible conflicts of interest;
- Prohibit contracts with business entities with which high-level agency leadership or staff have a financial interest;
- Require that the agency's board chair sign any contract valued at more than $1 million—or delegate signature authority to the agency head;
- For procurements of more than $5 million, require the agency's central contracting office or procurement director to sign off on the procurement method and to indicate, in writing, to the Board and agency head any potential issue that could arise in the contract solicitation.

POST OFFICE BOX 12428 AUSTIN, TEXAS 78711 (512) 463-2000 (VOICE)/ DIAL 7-1-1 FOR RELAY SERVICES

While this bill is still a work in progress and may be amended to include additional reforms, I believe that the filed version of SB 353 is an important first step toward restoring public trust. There is no reason to wait and no time to waste in working to ensure the highest level of transparency and integrity in the state contracting process. And while we plan to work proactively with Sen. Nelson with the goal of enacting even more stringent reforms to the contracting process, as Governor, I believe that immediate action is necessary and that the reforms outlined above form a solid foundation that will improve public confidence and transparency in state contracting.

With that in mind, effective February 1, I expect all state agency heads to begin complying with the reforms outlined above. Again, we recognize that this legislation may be amended as it proceeds through the legislative process, however until the law eventually takes effect, state agencies must begin to implement the reforms outlined in this letter immediately.

Finally, I want to reiterate my commitment to an open and transparent bidding process for all state contracts. In light of that goal, I expect that all state agencies will utilize a competitive bidding process not only when it is required by law—but also at all times that it is feasible to do so. Of course, I understand that emergencies may arise that require immediate action by agencies that is not amenable to a more lengthy competitive bidding process. However, it is my expectation as Governor that agencies will utilize a competitive bidding process at all other times.

This memorandum does not change the law. That is the Legislature's responsibility. It does not change any agency administrative rules regarding contracting or procurement. There is a process for that. The purpose of this letter is to outline higher standards for state agencies and to call on custodians of the public trust to achieve those high standards when they face decisions about how to spend the taxpayers' hard-earned money.

Thank you for your service to the State of Texas.

Sincerely,

Greg Abbott
Governor of Texas

CREDIT UNION DEPARTMENT

Harold E. Feeney
Commissioner

Robert N. Baxter II
Deputy Commissioner

January 23, 2015

The Honorable Judith Zaffirini
Texas Senate
P.O. Box 12068
Austin, Texas 78711-2068

Re: Response to Request for Information

Dear Senator Zaffirini:

The Credit Union Department has received your letter dated January 20, 2015, requesting information about the agency's compliance with Texas Government Code §572.051 and §2262.0535.

Enclosed is a copy of the Department's Ethics Policy, promulgated pursuant to Section 572.051(c) of the Texas Government Code. All employees are provided with a copy of this policy as part of the Department Policies and Procedures Handbook, which is reviewed and updated regularly. Each new employee of the Department will receive a copy of this policy on his or her first day of employment with the agency.

The Credit Union Commission members (the governing board of the agency) have been alerted to the contracting training requirement in Texas Government Code § 2262.0535 and encouraged to attend the training provided by the Texas Comptroller's Office. Although no member of the governing board has completed the training at this time, several members are registered for the training sessions on February, 19, 2015 and March 19, 2015. We expect to achieve full compliance with this requirement by June 19, 2015.

If you have any further questions or concerns please contact me at your convenience.

Sincerely

Harold E. Feeney
Commissioner

HEF/lmc

Enclosure

914 East Anderson Lane • Austin, Texas 78752-1699 • Telephone (512) 837-9236 • FAX (512) 832-0278

Chair, Government Organization Committee
Vice Chair, Joint Oversight Committee
on Higher Education Governance,
Excellence, and Transparency
Legislative Budget Board

Judith Zaffirini
State Senator, District 21
President Pro Tempore, 1997

Committees
Administration
Finance
Health and Human Services
Higher Education

January 20, 2014

RECEIVED
CREDIT UNION
DEPARTMENT
2015 JAN 21 PM 1:30

Manuel Cavazos
Commissioner
Credit Union Commission
914 East Anderson Lane
Austin, TX 78752

Dear Commissioner Cavazos:

Thank you for your service to the state of Texas and your commitment to ensuring efficient use of state resources to serve the citizens of the state. Your dedication and efforts are appreciated greatly.

This is to request the following:

1. A copy of your agency's ethics policy and confirmation of distribution to all employees as required by Government Code, Section 572.051.

2. Confirmation and record of the governing board of the agency completing the contracting training required by Government Code, Section 2262.0535.

I would appreciate your sending me this information no later than Friday, January 30. Please feel free to contact me or my staff for more information or whenever we may be of assistance.

May God bless you.

Very truly yours,

Judith Zaffirini

Judith Zaffirini

JZ/rem

Capitol Office: P.O. Box 12068 • Austin, Texas 78711 • 512/463-0121 • Fax 512/475-3738 • Dial 711 For Relay Calls
District Office: P.O. Box 627 • Laredo, Texas 78042-0627 • 956/722-2293 • Fax 956/722-8586

CREDIT UNION DEPARTMENT

Harold E. Feeney
Commissioner

Daniel J. Buckley
Deputy Commissioner

January 23, 2015

The Honorable Royce West
Texas Senate
P.O. Box 12068
Austin, Texas 78711-2068

Dear Senator West:

This letter is in response to your correspondence of January 16, 2015 related to the 2015 "Doing Business Texas Style" Spot Bid Fair (Fair). More specifically, you requested a written explanation if our agency was not able to participate in this year's Fair.

Due to the size of this agency and the limited purchasing requirements of the Department, we currently have no procurement opportunities to present to the attendees at the Fair. Despite our inability to participate in the Fair, the Department remains committed to utilizing Historically Underutilized Businesses (HUB) wherever feasible. In addition to our HUB procurement policy, the Department has developed a HUB diversity plan to ensure that our HUB purchases represent as many businesses as possible.

Should you have any questions or want to discuss the matter in more detail, please feel free to contact us.

Sincerely,

Harold E. Feeney
Harold E. Feeney
Commissioner

HEF/lmc

914 East Anderson Lane • Austin, Texas 78752-1699 • Telephone (512) 837-9236 • FAX (512) 832-0278

The Senate of The State of Texas

SENATE COMMITTEES:

CHAIRMAN
Jurisprudence

MEMBER
Education
Finance
Health and Human Services
Higher Education

Senator Royce West
District 23

President Pro Tempore
2006

DISTRICT OFFICE:
5787 South Hampton Road
Suite 385
Dallas, Texas 75232
214/467-0123
Fax: 214/467-0050

DISTRICT OFFICE:
2612 Main Street, Suite 100
Dallas, Texas 75226
214/741-0123
Fax: 214/749-7830

CAPITOL OFFICE:
P.O. Box 12068
Austin, Texas 78711
512/463-0123
Fax: 512/463-0299
Dial 711 for Relay Calls

January 16, 2015

Mr. Harold E. Feeney
Commissioner
Texas Credit Union Department
914 East Anderson Lane
Austin, TX 78752-1699

Dear Mr. Feeney:

The 2015 "Doing Business Texas Style" Spot Bid Fair is on the horizon, and will be held in Irving, Texas on May 11-12, 2015. I am extremely appreciative of the agencies and institutions of higher education that have participated in the Spot Bid Fair over the years, and I am especially impressed with their most recent efforts at the 2014 Spot Bid Fair where more than $1.4 million was awarded in contracts for goods and services.

The Spot Bid Fair provides procurement opportunities for Historically Underutilized Businesses (HUBs) throughout Texas that supply the goods and services sought by your agency. The unique format of the Spot Bid Fair includes on-the-spot contract awards and live event-time announcements of potential bid winners.

As in previous years the Spot Bid Fair will take place over a two day period in conjunction with the Statewide HUB Program's 2015 Procurement Connection Seminar EXPO (PCSE) to be held on May 11th, and the Dallas/Fort Worth Minority Supplier Development Council's "ACCESS 2015" Business EXPO to be held on May 12th. I am most anxious to see an increase in the number of agencies participating at this year's Spot Bid Fair and the number of procurement opportunities they provide for vendors to bid on at the event. Please prepare your agency to participate by providing:

1. Spot Bid opportunities that can be awarded at this event.
2. Purchasers who have the ability to award.

The Spot Bid Fair planning committee and my office will be working hard to ensure that HUBs attend and are well prepared to bid on the opportunities your agency will have available. Within the coming weeks the planning committee will provide the agencies with an informational packet to assist them with preparing, registering and posting their bid opportunities to a dedicated website for the Spot Bid Fair.

Please ensure that a copy of this letter and the forthcoming informational packet is distributed to your agency's Chief Financial Officer, Purchasing Director and HUB Coordinator. I greatly look forward to your agency participating and continuing to increase its procurements with HUBs. If your agency is unable to participate, please provide a written explanation to my office no later than April 10, 2015.

Sincerely,

Royce West
State Senator

RECEIVED
CREDIT UNION
DEPARTMENT

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

P. O. Box 13225 • Austin, Texas 78711 • office (512) 936-4400 • fax (512) 936-4409
www.tbpg.state.tx.us

2015 JAN 12 PM 1:03

January 9, 2015

Harold E. Feeney, Commissioner
Credit Union Department
914 E. Anderson Lane
Austin, TX 78752-1699

Re: Implementation of SB 138

Dear Mr. Feeney:

Senate Bill (SB) 138, which was passed by the 83rd Texas Legislature and signed by Governor Perry, became effective September 1, 2013. SB 138 amended the Texas Geoscience Practice Act (Texas Occupations Code, Chapter 1002, §§201-207) and established new requirements for the Texas Board of Professional Geoscientists (TBPG) and certain other state agencies that may use or rely on the services of a Professional Geoscientists (P.G.). **The TBPG has identified your agency as one directly impacted by SB 138 and the changes to the Texas Occupations Code.**

The TBPG is now required to identify those state agencies that may or may use or rely on the services of a P.G. and then educate each agency's employees regarding P.G. services and the procedures by which questions or complaints can be filed and resolved by the board. This Senate Bill provides an avenue for identified state agencies to shift the responsibility for determining the existence of a violation to the TBPG.

To facilitate the implementation of SB 138 for the impacted state agencies, the TBPG has developed a PowerPoint training module (approximately 2 hours) to accomplish the education. The presentation and other informational materials may be also viewed on the TBPG website at `http://tbpg.state.tx.us/sb-138-resources/-` . The training presentation is the first link on the webpage below the heading: SB 138 Training Materials.

Under the provisions of SB 138, a state agency that becomes aware of a *potential* violation of the Texas Geoscience Practice Act or a rule adopted by the TBPG Board shall forward any information relating to the potential violation and any subsequently obtained information to the Board. TBPG has developed a referral form to facilitate the referral of information from a state agency to the TBPG.

The Act also provides that information forwarded by a state agency that is privileged or confidential remains privileged or confidential following receipt by the TBPG. The Act provides that the forwarding of privileged or confidential information by a state agency does not waive a privilege in or create an exception to the confidentiality of the information. The Act also provides that a state agency's provision of information or failure to provide information under this section does not give rise to a cause of action against the agency.

We are asking that you and relevant staff review the included copy of SB 138 and identify an individual with which we can communicate as the main liaison between your agency and the TBPG for the mutual implementation of SB 138.

TBPG staff would then discuss the provisions of the Act with your liaison and seek to 1) work with the liaison to identify staff within your agency who should receive the two-hour training; 2) provide to the liaison the referral form (reviewing it with the liaison and other staff, as necessary); and 3) schedule the training for relevant staff.

Please note that the agency referral form is not available on the TBPG website. TBPG staff will provide it to your agency. Only authorized staff of your agency should submit a referral form from your agency. Of course, the TBPG, like any professional licensing program, may receive a complaint against a licensee from any member of the public, including the employee of a state agency.

I am asking that you or a relevant staff member contact me directly by phone, letter or e-mail with the name and contact information for your agency's liaison.

The TBPG has strived to facilitate implementation of SB 138 for your agency through this streamlined education process. By identifying the appropriate staff and coordinating with us to conduct the education, your agency will be in general compliance with the revised Texas Occupations Code. Thank you in advance for working with TBPG on the implementation of SB 138. If you (or your liaison) have any questions, please contact me directly.

Sincerest regards,

Charles Horton

Charles Horton, Executive Director
Texas Board of Professional Geoscientists
333 Guadalupe Street, Ste. I-530
P.O. Box 13225
Austin, TX 78711

Voice (512) 936-4401 / fax (512) 936-4409
chorton@tbpg.state.tx.us

CC: Becky Johnson, P.G., TBPG Board Member, Chair, TBPG Compliance and Enforcement Committee
Wesley McCoy, P.G., TBPG Enforcement Coordinator

STATE OFFICE OF RISK MANAGEMENT
WILLIAM P. CLEMENTS, JR. BUILDING, 6TH FLOOR
P.O. BOX 13777, AUSTIN, TEXAS 78711
(512) 475-1440

December 12, 2014

Mr. Harold E. Feeney
Commissioner
Credit Union Department
914 East Anderson Lane
Austin, TX 78752-1699

Agency # 469

RE: RISK MANAGEMENT PROGRAM REVIEW

Dear Mr. Feeney:

The Texas Labor Code, Title 5, Subtitle A, Chapter 412, requires the State Office of Risk Management to assist state agencies to implement an effective risk management program and to identify the exposures to property and liability losses including workers' compensation losses. Additionally, the State Office of Risk Management is charged with the responsibility of reviewing, verifying, monitoring, and approving risk management programs adopted by state agencies. To accomplish these legislative mandates, we have scheduled your agency for a Risk Management Program Review involving SORM's Risk Managers, Frank Marcopolos and Erika Gutierrez, your agency Risk Manager, your agency Workers' Compensation Coordinator, and yourself or designee to begin on **Thursday, February 12, 2015 at 9:00 am.** We anticipate the visit will last **1 day.**

At the conclusion of the consultation, general observations will be discussed with your agency Risk Manager, your agency Workers' Compensation Claims Coordinator, and yourself. SORM will prepare and issue a report with details and specific recommendations for your review and consideration approximately two weeks after the visit. **We will request that you provide an action plan to address each recommendation with specific implementation dates.**

In preparation for this review, we need to receive certain information, if available. This information, when returned to our office, will aid the State Office of Risk Management in determining which risk exposures to examine more closely. We would appreciate receiving the requested information itemized below no later than **Thursday, January 22, 2015**. Please forward the electronic information to frank.marcopolos@sorm.state.tx.us. If you are sending a hard-copy version of the requested information, please mark the package to the attention of Frank Marcopolos.

1) Completed Risk Evaluation and Planning System Survey. The survey is available at the State Office of Risk Management's website at https://www.sorm.state.tx.us/sorm/pages/SORMLogin.html. Login and click on your agency name. Click on Risk Evaluation and Planning System Main Menu. Complete all three required sections and logout.
2) Your latest annual report (financial statement plus summary of past year or past biennium years accomplishments);
3) Up-to-date organizational chart (please note placement of the risk management function on the chart);
4) Description, location, and number of full-time employees at the agency and each field office;
5) Copy of your employee handbook, personnel manual, and/or personnel policies and procedures;
6) Copy of your specific risk management plan or manual, and/or risk management policy, and/or internal procedures that describe the agency's methods of controlling risks, exposures and losses;
7) Copy of your employee safety and health plan/manual;
8) Copy of your return-to-work policy/procedures;
9) Copy of your strategic plan;
10) Status of any open recommendations from previous visits by the State Office of Risk Management.
11) Written Business Continuity Plan;
12) Completed Risk Exposure Audit, Auto and Property Schedules (templates attached in email) as directed by Texas Labor Code § 412.053. This will also complete one of the requirements listed on the Crosswalk for your business continuity plan sent to the State Office of Risk Management for review. For assistance or questions, please contact Michelle Tooley at 512-936-2942 or michelle.tooley@sorm.state.tx.us.

In addition, please have the following documentation present and be prepared to discuss the following:

- Workers' compensation claim data for the present fiscal year and the preceding three fiscal years. The claims data should include the claimant's name, date of injury, nature of injury, cause of injury, occupation of claimant, location of injury, medical costs, indemnity costs, and estimated return to work date.

- Analysis of workers' compensation claim data noting trends of the causes of injuries, the location of injuries, the occupation of injured claimants, the day of the week the injury occurred, and the time of day the injury occurred. The analysis should also compare the above-mentioned items during the present fiscal year and the preceding three fiscal years.

- Accident investigation reports for review.

- Written accident prevention plans to reduce or eliminate the leading causes of injuries as identified from the workers' compensation claim data.

- Lost, damaged, or destroyed property data for the present fiscal year and the preceding three fiscal years. The data should include the type of property, date of loss, location of loss, and cost of loss.

- Written loss control plans to reduce or eliminate lost, damaged, or destroyed property.

- The most recent SORM 200 data submitted to SORM.

- Verify and update contact information for your state agency or institution of higher education. Log in to the Risk Management Information System at https://www.sorm.state.tx.us/sorm/pages/SORMLogin.html and click on "RMIS User Access and Agency Contact Information Management" to update all contact information.

Additionally, a walk-through visit may be conducted of the agency to determine compliance with Risk Management for Texas State Agencies (RMTSA) guidelines and other nationally recognized standards as appropriate.

If your agency has questions about the Risk Management Program Review process or the information requested above, please feel free to contact Frank Marcopolos at (512) 936-1573 or frank.marcopolos@sorm.state.tx.us or Erika Gutierrez at (512) 936-1454 or erika.gutierrez@sorm.state.tx.us.

Sincerely,

Stephen Vollbrecht
Executive Director
State Office of Risk Management

cc: Ms. Stacey McLarty, General Counsel/Assistant Commissioner, Credit Union Department

D

COMMITTEE REPORT

The Commissioner Evaluation Committee will report on their activities and recommendations to the Commission.

RECOMMENDED ACTION: The Department requests that the Commission accept the Committee's report as presented.

COMMISSIONER EVALUATION COMMITTEE

D. COMMISSIONER EVALUATION COMMITTEE -- The Chair of the Committee will report on potential changes to the evaluation form for the Commissioner's FY 2016 performance review.

BACKGROUND: The Commissioner Evaluation Committee is a standing committee of the Commission. The purpose of the committee is to coordinate the annual evaluation of the commissioner's performance development and maintenance of a commissioner's succession plan.

COMMITTEE MEMBERS

- Allyson "Missy" Morrow, Chair
- Rob Kyker
- Sherri B. Merket
- Gary Tuma
- Vik Vad
- Manuel "Manny" Cavazos, Ex-officio

The Commissioner Evaluation Committee is scheduled to meet on February 19, 2015, in a public meeting to discuss changes to the evaluation form. The Committee will report on its activities for consideration and possible vote by the Commission.

CREDIT UNION COMMISSION
Commissioner Evaluation Committee Meeting
Credit Union Department Building
914 East Anderson Lane
Austin, Texas

Thursday, February 19, 2015
11:00 a.m.

* * * **AGENDA** * * *

I. Call to Order (11:00 a.m.) - Chair Allyson Morrow

a. Ascertain Quorum
b. Appoint Recording Secretary
c. Acknowledge Guests

II. Approve Minutes of October 16, 2014 Meeting

III. New Business

a. Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Approve the Proposed Modifications to the Commissioner's FY 2016 Performance Evaluation Form and Associated Performance Measures
b. Discussion and Consideration of a Tentative Date for Next Committee Meeting (October 16, 2015)

Adjournment

Note: The Committee may go into Executive Session [close its meeting to the public] on any agenda item if appropriate and authorized by Section 551.074 of the Government Code.

In the event the Commission does not finish deliberation of an item on the first day for which it was posted, the Commission might recess the meeting until the following day at the time and place announced at the time of recess.

Meeting Accessibility: Under the Americans with Disabilities Act, the Credit Union Commission will accommodate special needs. Those requesting auxiliary aids or services should notify Linda Clevlen, Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752, (512) 837-9236, as far in advance of the meeting as possible.

CREDIT UNION DEPARTMENT
COMMISSIONER EVALUATION FORM
FY 2015

Name ____

Date Employed ____________________ **Date of Last Evaluation** ____________________

RATING SUMMARY

To determine the Overall Rating, enter the Total Results Achievement and Skills Evaluation scores below, multiply the individual scores by the weights placed on each section as indicated, and add the results together.

I. Results Achievement

____________________ x 0.75 = ________________
(Total Score from Pg. 2)

II. Skills Evaluation

____________________ x 0.25 = ________________
(Total Score from Pg. 3)

Overall Rating (Sum of I and II) ________________

GENERAL OBSERVATIONS:

RECOMMENDATIONS:

GENERAL:

SALARY:

____
Chair, Commissioner Evaluation Committee

____
Date

I. JOB RESPONSIBILITIES AND PERFORMANCE CRITERIA

For each job responsibility/performance category, assign a rating from 1 to 5 based on the performance rating definitions described at the bottom of the form. Next, multiply the rating assigned by the weight shown and enter the result in the "weight x rating" box (i.e. 25% x 5 = 1.25).

JOB RESPONSIBILITIES AND PERFORMANCE CRITERIA (Responsibility statements from the job description or established criteria)	ACHIEVEMENT	WEIGHT	RATING	WEIGHT RATING
1. Examination Program	Intervals between CU Exams shall not exceed 18 months Examiner's E-time will be **60%** of worktime available **85%** of Exam reports will be mailed within 20 days	25%		
2. Supervision	CAMEL composition ratings Supervisory action analysis	25%		
3. Administrative Practices	Office Administration/Budget Complaints **92%** of complaints will be resolved within 30 days Complaint Resolution will average **23** days or less	25%		
4. Communication	**85%** of CUs will indicate quality service from TCUD Legislative responsiveness for department	15%		
5. Commission Interaction	**10** days before Commission meeting agenda packets will be mailed **8** periodic reports will be mailed to Commission members	10%		
I. Total Score (Sum of numbers shown in the "weight x rating" boxes. [Score must not be less than 1 nor greater than 5]. Enter this score in Results Achievement Section on page 1.)				

PERFORMANCE RATINGS: The annual review will be classified in one of the following areas.

1. **UNSATISFACTORY:** Employee is not performing the minimum requirements of the responsibility area in a satisfactory manner. Performance meets few or none of the key goals/standards. Improved performance is required for continuation in the position.

2. **BELOW REQUIREMENTS:** Employee is not consistently performing all the requirements of the responsibility area. Performance is below expectations showing consistent weakness. Improved performance is necessary. Requires more than expected supervision.

3. **MEETS REQUIREMENTS:** Employee is performing all requirements of the responsibility area. Performance is standard, although some requirements are performed above expectations and occasionally below. Performance meets most key goals/standards. Fully competent performer.

4. **EXCEEDS REQUIREMENTS:** Employee is performing most requirements of the responsibility area consistently above expectations and significantly exceeds some requirements. Requires less supervision than expected.

5. **SIGNIFICANTLY EXCEEDS REQUIREMENTS:** Employee is consistently performing all requirements of the responsibility area significantly above expectations. There are no weaknesses on key goals/standards. Makes significant contributions well beyond job demands.

II. SKILLS EVALUATION

For each skill, circle the performance rating (as defined on page 2) which most accurately describes the commissioner's performance.

	COMMENTS
1. **Initiative** -- The ability to execute independent action and begin working without supervision; sets own goals and direction; self-starter. 1 2 3 4 5	
2. **Technical Knowledge** -- The familiarity with and understanding of specific information related to the job. Capacity and ability to perform assigned responsibilities with current knowledge. 1 2 3 4 5	
3. **Creativity/Innovation** -- The ability to conceive and introduce original ideas, methods and programs through imaginative thinking. 1 2 3 4 5	
4. **Decisiveness/Judgment** -- Shows willingness to accept risk and act with available data. Chooses best course of action from several alternatives in timely manner. The ability to weigh relevant data and draw sound conclusions. Considers variety of factors, places them in proper perspective to reach logical conclusions based on evidence at hand. 1 2 3 4 5	
5. **Planning/Organization** -- Establishes short and long-range objectives, an appropriate course of action to accomplish them, who is to do them, and the timing for completion. Arranges work in systematic manner to promote efficiency; assigns work in proper priorities; establishes clear relationships of responsibility and priorities, and prevents duplications of effort. 1 2 3 4 5	
6. **Leadership** -- To direct or influence the operations, activities, and performance of a group. To demonstrate the capacity to inspire teamwork and motivate others to accomplish objectives. To command attention and respect and to display a genuine air of confidence. 1 2 3 4 5	
7. **Professional Image** 1 2 3 4 5	

I. Total Score: ___________

(Add all circled numbers above and divide by seven. [Score must not be less than 1 nor greater than 5]. Enter this score in Skills Evaluation section on page 1.)

E

E. (a) Discussion and Consideration of the Department's FY 2015 Financial Performance and a Possible Vote to Amend the Department's FY 2015 Budget to Include Additional Funding to Develop and Implement a Web-based Electronic Document Repository and Secure Web Portal Utilizing SharePoint Online Solution.

BACKGROUND:

Financial Performance

In February 2014, the Commission adopted a Strategic Plan for Fiscal Years 2015-2109. The $3.4 million FY 2015 Budget, approved by the Commission in June 2014, includes the maintenance and operation budget and capital improvement budget in support of the first year of the Strategic Plan.

The following report highlights the Department's financial results for the quarter ended November 30, 2014. The Financial Statement for January 2015 will be distributed at the meeting.

Significant spending variances by major expense category are discussed below:

- Personnel Expenses - Other

The unanticipated resignation of an 8-year field examiner necessitated a lump-sum payment for accrued leave that was not included in the Budget. While the Commission has set aside a specific reserve to cover such payments, the Department anticipates that it will cover the associated expenditure, without dipping into the reserves, through vacancy savings.

- Other Operating Expenses - Repairs/Maintenance

Certain one-time maintenance functions performed by the Texas Facilities Commission were not anticipated in the budget. The Department anticipates that the associated expenditure will be covered by cost savings in other operating expenses and vacancy savings.

- Other Operating Expenses - Computers

The Department needed to replace a printer earlier than anticipated. The Department anticipates that the associated expenditure can be accommodated in the aggregate FY 2015 Budget amount for computers.

- Other Operating Expenses - State of Texas Services

The formula for determining the State-Wide Cost Allocation was adjusted subsequent to the adoption of the FY 2015 Budget. The Department anticipates that the associated increased expenditure will be covered through vacancy savings.

The quarterly financial report is unaudited and is prepared on a cash basis of accounting. In most cases, expenditures are expensed 30 days after the invoice due date.

Potential Budget Adjustment

The Department's paper document management system has become increasingly cumbersome and antiquated. This system not only requires department resources, including the overuse of paper, printers, and staff time, but also makes it increasingly difficult for the Department to comply with statewide initiatives for security, business continuity, and resource efficiency. In an effort to reduce dependence on paper files and records and improve efficiency, the Department began a multi-phase initiative in FY 2014 to transition from a paper-based method of handling documents to an electronic document storage and management system. As part of that process, we contract with a third-party to develop the project plan and detailed requirements document for a SharePoint platform designed to meet the Department's specific needs. In January 2015, the third-party vendor provided the Department with an estimate for completing the remaining initial phases of the initiative.

As proposed, the Department would create a modern technology document management solution using Microsoft's Office 365 and SharePoint Online. The Proposal's goal is to allow the Department to organize, share, collaborate, and track the activity of the Department's digital document assets, and ensure compliance with state records retention requirements for the life of a document. In addition, the Proposal has been designed with the capacity for the Department to build future IT projects and productivity features, such as a secure, web-based portal that provides restricted, user defined access to credit union related information by the examination staff and credit unions.

The benefits of this Proposal are:

1. It creates a modern digital document system that improves the Department's ability to interact, organize, share and get information from the CUD's documents.

2. It is based on Microsoft's subscription Cloud offering, Office 365 and SharePoint Online, giving the Department access to features, security, disaster recovery and access over the internet that it could not afford to do otherwise.

3. It provides flexibility for staff to create and organize their work documents as well as collaborate on documents worked on by multiple staff members.

4. It includes tools to organize documents, minimize errors, and help in the review and task management processes for digital documents.

5. It enables the Department to add details about the documents (metadata) such as document type (Examination, Complaint, Correspondence, Bylaws, Mergers and General), document format (adobe acrobat, word, excel, email), retention information, and specific information based on the document type.

6. It allows the Department to efficiently search and organize documents through the use of the added document details.

7. It allows for secure exchange of documents between the central CUD office and persons outside the office.

A synopsis of this initiative to date and a breakout of the estimated cost to complete the next phase of this project are provided on the following page.

RECOMMENDED ACTION: Staff recommends that the Commission authorize the Department to proceed with the next phase of this proposal and make the necessary adjustments to the budget.

RECOMMENDED MOTION: I move that Commission approve the electronic document management solution, as presented, and that the FY 2015 budget be increased by $92,080 to cover the associated cost.

Credit Union Department
Staff Memorandum

AUTHOR: Stacey McLarty, Assistant Commissioner & General Counsel

SUBJECT: ***Electronic document management***

The Department's most recent strategic plan initiatives call for a change from the traditional, paper-driven method of handling documents to an electronic document storage and management system. The initiatives are based on a desire for greater efficiency in the Department's document management processes, as well as a need to ensure business continuity in the event of an emergency, and improved information accessibility and security for Department stakeholders. The Department's electronic document management goals are consistent with the statewide directives to improve technology, security, and continuity planning.

From May through September 2014 The Department worked with Allan Martin and Eduardo Marquis at the Texas Department of Information Resources (DIR) to identify the Department's needs and develop a bid request based on those needs. Over a period of time, it was determined that the Department should utilize the cloud-based Microsoft SharePoint solution for its document management system. This product could be customized to meet the Department's specific needs and could be updated as those needs evolved. SharePoint is compatible with the other Microsoft products already used by the Department. It is also in widespread use throughout the state, so there are many eligible vendors who are able to develop and maintain this product. While the statement of work and project management plan for the document management plan was being prepared, the Department proactively initiated the bulk scanning of its primary records and implemented policies for the ongoing creation of electronic records. The Department also began the process of migrating from the 2007 desktop version of Microsoft office to the cloud-based and up-to-date Office 365 product that would include the SharePoint platform.

DIR maintains a list of approved vendors for IT projects and assists with the development of contracts for those projects. The Department examined the extensive list of vendors and identified 7 local and reputable vendors with experience in SharePoint. In September of 2014, in accordance with State of Texas purchasing rules, the Department sought bids from these vendors. Only DatamanUSA responded with a bid proposal. The initial proposal for complete project management and full implementation of the SharePoint product was $120,720. Dataman also provided an option for an incremental approach to this project, starting with the development of a detailed requirements document and project plan for $26,000. This initial bid was good for 90 days.

The Department decided to take the incremental approach. This choice fit within the Department's current budget constraints and staff believed it would provide the agency with a more detailed understanding of the implementation and customization process. From October 2014 through January 2015, Dataman representatives James Rivera and Jason Hargrove worked with the Department to develop the project plan and detailed requirements document for a SharePoint platform designed to meet its needs. In January 2015, Dataman provided an updated estimate for completing the project, subdivided into four categories:

- SharePoint online solution - $80,000; this would provide for the development and implementation of the SharePoint platform designed to satisfy the Department's document management needs.
- SharePoint Online training - $8,000; this would include training the staff to use the SharePoint product and also train the network administrator to maintain the product.
- Sage/Act integration assessment - $4,080; this would include evaluation and planning of migration of the Department's database functions to a SharePoint platform
- SharePoint Online custom web portal – $16,080; this would include the integration of the Department's website onto the SharePoint platform and allow internal and external users to securely download and upload documents, directly.

Credit Union Department
Operating Statement & Budget Analysis
For the Period Ended 11/30/14

	FY 2015 Budget	FY 2015 YTD Budgeted Revenues	FY 2015 YTD Actual Revenues	Over (Under) Budget	Percent of Budget
REVENUES:					
Operating Income					
Operating Fees	$3,411,170	$1,873,551	$1,873,551	$0	96%
Out-of-State Branch Fees	$0	$11,000	$11,000	$0	
Examination Fees			$0	$0	
Application Fees			$200	$200	
Penalties		$0	$7,607	$7,607	
Other			$0	$0	
Operating Income Subtotal		$1,884,551	$1,892,358	$7,807	
Interest Income					
Interest Trust			$145	$145	
Interest USAS			$0	$0	
Interest Income Subtotal		$0	$145	$145	
Refunds					
(vendors)			$0	$0	
Refunds Subtotal		$0	$0	$0	
TOTAL REVENUES	**$3,411,170**	**$1,884,551**	**$1,892,503**	**$7,952**	**96%**
Excess Reserve Funds *utilized to reduce operating fees*	**$0**	**$0**	**$10,034**	**$10,034**	
TOTAL FUNDS AVAILABLE TO COVER EXPENDITURES	**$3,411,170**	**$1,884,551**	**$1,902,537**	**$17,986**	

Credit Union Department
Operating Statement & Budget Analysis
For the Period Ended 11/30/14

	FY 2015 Budget	FY 2015 YTD Budget	FY 2015 YTD Actual	(Over)Under Budget	Percent of Budget
EXPENDITURES:					
Personnel Expenses:					
Salaries and Wages	$2,059,784	$514,947	$471,197	$43,750	92%
Overnight Stipends	$0	$0	$0	$0	n/a
Employee Benefits	$621,010	$155,250	$133,520	$21,730	86%
Other (longevity, lump sum)	$37,720	$9,429	$11,887	($2,458)	126%
Total Personnel Expenses	**$2,718,514**	**$679,626**	**$616,604**	**$63,022**	**91%**
Travel Expenses:					
In State	$367,216	$69,507	$65,456	$4,051	94%
Out-of-State	$10,000	$3,330	$1,628	$1,702	49%
Commission	$11,000	$3,144	$1,559	$1,585	50%
Total Travel Expenses	**$388,216**	**$75,981**	**$68,643**	**$7,338**	**90%**
Other Operating Expenses:					
Communication/Utilities	$38,050	$6,190	$3,305	$2,885	53%
Professional Services/Fees	$45,800	$8,960	$3,891	$5,069	43%
Supplies/Materials	$15,910	$3,505	$2,514	$991	72%
Training/Registration	$13,680	$0	$1,010	($1,010)	100%
Repairs/Maintenance	$51,670	$11,296	$12,330	($1,034)	109%
Rentals and Leases	$4,761	$2,503	$2,154	$349	86%
Computers	$23,600	$0	$2,260	($2,260)	100%
Other Operating	$30,469	$6,938	$5,138	$1,799	74%
State of Texas Services	$80,500	$4,300	$6,034	($1,734)	140%
Capital Expenditures	$0	$0	$0	$0	100%
	$0	$0	$0	$0	100%
Total Other Operating Expenses	**$304,440**	**$43,692**	**$38,637**	**$5,055**	88%
TOTAL EXPENDITURES	**$3,411,170**	**$799,299**	**$723,884**	**$75,415**	**91%**
SURPUS FUNDS AVAILABLE FOR FUTURE EXPENDITURES	**$0**	**$1,085,252**	**$1,178,653**	**$93,401**	

FINANCIAL SERVICES MARKET AND CREDIT UNIONS REGULATED BY THE DEPARTMENT

E. (b) Discussion and Consideration of Current Status of the Financial Services Market and the Effect on Credit Unions Regulated by the Department.

BACKGROUND: The operating environment for Texas credit unions remains somewhat difficult as a result of the Great Recession and subsequent prolonged economic recovery. Credit unions have specifically been impacted by the combination of historically low interest rates, above-average unemployment, and weak demand for loan products. Boards and management are working very hard to capture the financial business of their members. The costs associated with advancing technology and achieving and maintaining regulatory compliance are also creating challenges for credit unions. These costs are rarely recoverable, so efficient operations are becoming even more critical.

INDUSTRY STATUS: At **September 30, 2014**, there were **188** state-chartered credit unions in Texas. Assets in these credit unions totaled **$31.822 billion**, which is an increase of **$2.028 billion** since **September 30, 2013**, for an annualized growth rate of **6.37%**. The average net worth ratio increased to **10.01%** from **9.71%** at **September 30, 2013**.

Loans for Texas chartered credit unions totaled **$21.482 billion** as of **September 30, 2014**. This is an increase of **$2.586 million** since **September 30, 2013** for an annualized growth rate of **13.7%**.

Shares for Texas chartered credit unions totaled **$27.889 billion** as of **September 30, 2014**. This is an increase of **$1.888 million**, or **7.26%** since **September 30, 2013**.

Texas chartered credit unions average loan delinquency ratio was **0.64%** as of **September 30, 2014**, compared to a ratio of **0.74%** as of **September 30, 2013**.

At **September 30, 2014**, **34** state-chartered credit union reported net operating losses, compared to **35** at **September 30, 2013**. These **34** credit union reported aggregate negative net earnings of **$55.6 million**. The remaining **154** credit unions reported aggregate net income **$197.97 million**.

PROBLEM INSTITUTIONS: **31** credit unions were assigned a CAMEL rating of 3 or higher. Each credit union in this category is monitored through regular on-site contacts and ongoing reviews of compliance with issued and outstanding documents of resolution and other supervisory agreements or orders.

ENFORCEMENT ISSUES: The Department has the following administrative sanctions outstanding:

Dividend Restrictions	**0**
LUAs	**2**
Determination Letters	**4**
Conservatorships	**1**
Cease and Desist	**2**

Chartering Activity

New Charter	**0**

RECOMMENDED ACTION: No formal action is anticipated.

RATIO ANALYSIS

September 2014/September 2013

	September 30, 2014	September 30, 2013	Difference
# of Credit Unions	188	190	-2
Total Assets	$31.822 B	$29.794 B	$2.028 B
Average Assets/CU	6.12 M	6.37 M	-0.25 K
Net Worth/Total Assets	10.01	9.71	+0.3
Net Worth Growth	$8.78 M	$10.45 M	-$1.67 M
Return on Average Assets	0.82	0.88	-0.06
Net Interest Margin/ Average Assets	3.18	3.14	+$0.04
Fee & Other Income/Average Assets	1.70	1.68	+0.02
Operating Expense/Average Assets	3.69	3.72	-0.03
Provision for Loan Loss/Average Assets	0.39	0.27	+0.12
% of Negative Earnings Credit Unions	18.1	15.8	+2.3
Loans/Shares	77.02	72.67	+4.34
Delinquent Loans/Total Loans	0.64	0.74	-0.1
Net Charge-Offs/Average Loans	0.57	0.59	-0.02
Share Growth	$4.95 M	$6.77 M	-$1.82 M
Loan Growth	$10.81 M	$9.34 M	+$1.47 M
Asset Growth	$5.82 M	$6.86 M	-$1.04 K
Membership Growth	2.87	3.22	-0.35

F

PROCEDURES FOR ADOPTING A PROPOSED RULE

1. A proposed rule is prepared by Credit Union Department staff and presented to legal counsel (Attorney General) for review.

2. The proposed rule is presented to the commission for consideration.

3. The commission reviews, amends, adopts, refers back to staff, or tables the proposed rule.

4. The proposed rule is adjusted by staff (if required), furnished to legal counsel and transmitted to the ***Texas Register*** for publication as a "proposed" rule.

5. A 30-day comment period follows initial publication which also is made in the Department's monthly newsletter or by a special mailing to credit unions.

6. The commission may reconsider the rule anytime after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no <u>substantive</u> changes are made. Any substantive change will result in the rule reverting to step four.

7. The rule is adopted as "final" and transmitted to the ***Texas Register*** for publication as a final rule. The rule becomes effective 20 days following filing for publication.

8. The rule is published or announced through the Department's newsletter.

<u>EMERGENCY RULES</u>

Rules, which are approved by the commission for emergency adoption, are transmitted to the ***Texas Register*** for filing. These rules become effective immediately upon filing unless another effective date is specified. They can be effective only for 120 days with a renewal provision for an additional 60 days -- a maximum of 180 days. "Day one" is the day of filing or the date specified as the effective date. While these emergency rules are in effect, regular rules should be initiated using the normal procedure described above. The Department rarely adopts emergency rules.

PROCEDURES FOR REQUIRED RULE REVIEW

Section 2001.39, Government Code, requires that a state agency review and consider for re-adoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. To comply with this requirement, the Commission follows the procedure below:

1. Every four years, the Commission adopts and publishes a Rule Review Plan, which establishes a date for the required review of each existing rule.
2. At least sixty days prior to a particular rule's scheduled review date, the Department publishes notice in the Newsletter reminding interested persons of the review and encouraging comments on the rules up for review.
3. Staff reviews each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule's structure as well as the specific language used is both clear and understandable.
4. If in reviewing existing rules, staff believes certain amendments may be appropriate, it provides an informal comment phase on any potential substantive amendments to all interested persons via its RuleRemarks blog on the Department's webpage.
5. After consideration of the informal comments, proposed amendments are prepared by staff and presented to the Rules Committee for review.
6. At a public meeting, the Rules Committee accepts public testimony on the each rule subject to review and considers staff recommended changes. The Committee reviews each rule and then amends the staff proposal and refers it to the Commission, refers the proposal back to staff, or refers the proposal, as recommended by staff, to the Commission.
7. The Committee's recommendation is presented to the Commission for consideration.
8. The Commission reviews, amends, approves the proposal for publications, refers it back to the Committee, or tables the proposed amendment.
9. If the Commission approves the proposal for publication, it is transmitted to the *Texas Register* for publication as a "proposed" rule amendment.
10. A 30-day comment period follows initial publication which also is announced in the Department's monthly newsletter.
11. The commission may reconsider the rule anytime after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in re-publication of the proposal.
12. The rule as amended is adopted and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.
13. The amended rule is announced through the Department's newsletter and copies are made available to credit unions.

NEW BUSINESS

Five (6) new items are being presented to the Commission for its consideration and possible formal action. Specifically, the Commission will have:

(a) Discussion, Consideration, and Possible Vote to Readopt 7 TAC Part 6, Chapter 91, Subchapters E (Direction of Affairs) and F (Accounts and Services) in their entirety.

(b) Discussion, Consideration, and Possible Vote to Approve and Authorize the Submission of the Department's Annual Internal Risk Assessment Report.

(c) Discussion, Consideration, and Possible Vote to Amend the Commission's Policies Manual, as Part of its Annual Policy Review.

(d) Discussion, Consideration, and Possible Vote to Adopt the General Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2016 Budget.

(e) Discussion, Consideration, and Possible Vote to Adopt Resolutions Commemorating First Basin Credit Union, Fort Worth Community Credit Union, Metro Medical Credit Union, LCRA Credit Union and Space City Credit Union for their Contributions to the Citizens of Texas on the Respective Milestone Anniversary Dates of their Origin.

(f) Discussion and Consideration of Legislative Issues and Activities Relating to the 84th Regular Session that may Impact the Department or Credit Unions under its Jurisdiction.

RECOMMENDED ACTION: The Department requests that the Commission take action as indicated on the documents contained in **TAB F**.

MANDATORY RULE REVIEW

F. (a) Discussion, Consideration, and Possible Vote to Readopt 7 TAC Part 6, Chapter 91 Subchapters E (Direction of Affairs) and F (Accounts and Services) in their Entirety.

BACKGROUND: Section 2001.39, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its June 2012 meeting, the Commission approved a plan, which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff reviewed **7 TAC Sections 91.501, 91.502, 91.503, 91.510, 91.515, 91.516, 91.601, 91.602, 91.608, and 91.610** and is recommending that no changes be made at this time.

Notice of review and a request for comments on these rules were published in the November 14, 2014 issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rules continue to exist.

RECOMMENDED ACTION: The Department recommends that Subchapters E and F be readopted without change.

RECOMMENDED MOTION: I move that the Commission find that the reasons for adopting the rules in Chapter 91, Subchapters E and F continue to exist and that these rules be readopted without change.

The Credit Union Commission (Commission) has completed its review of Texas Administrative Code Title 7, §91.501 (Director Eligibility and Disqualification), §91.502 (Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures), §91.503 (Change in Credit Union President), §91.510 (Bond and Insurance Requirements), §91.515 (Financial Reporting), §91.516 (Audits and Verifications); §91.601 (Share and Deposit Accounts), §91.602 (Solicitation and Acceptance of Brokered Deposits), §91.608 (Confidentiality of Member Records), and §91.610 (Safe Deposit Box Facilities), as published in the November 14, 2014 issue of the Texas Register (39 TexReg 9077). The Commission proposes to readopt these rules.

The rules were reviewed as a result of the Credit Union Department (Department)'s general rule review.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to readopt.

The Commission received no comments with respect to these rules. The Department believes that the reasons for initially adopting these rules continue to exist. The Commission finds that the reasons for initially adopting §91.501, §91.502, §91.503, §91.510, §91.515, §91.516, §91.601, §91.602, §91.608, and §91.610 continue to exist, and readopts these rules without changes pursuant to the requirements of Government Code, §2001.039.

Subchapter E. Direction of Affairs

§91.501. Director Eligibility and Disqualification.

(a) Board Representation. The credit union's bylaws shall govern board selection and election procedures. No credit union shall adopt or amend its articles of incorporation or bylaws to designate or reserve one or more places on the board of directors for any classification that results in a restriction or infringement upon the equal rights of all members to vote for, or seek any position on, the board of directors of the credit union. In addition, each credit union shall adopt policies and procedures that are designed to assure that the elections of directors are conducted in an impartial manner.

(b) Qualifications. A member may not serve as director of a credit union if that member:

(1) has been convicted of any criminal offense involving dishonesty or breach of trust;

(2) is not eligible for coverage by the blanket bond required under the provisions of the Act, or §91.510 of this title (relating to Bond and Insurance Requirements);

(3) has had a final judgment entered against him/her in a civil action upon the grounds of fraud, deceit, or misrepresentation;

(4) has a payment on a voluntary obligation to the credit union that is more than 90 days delinquent or has otherwise caused the credit union to suffer a financial loss;

(5) has been removed from office by any regulatory or government agency as an officer, agent, employee, consultant or representative of any financial institution;

(6) has been personally made subject to an operating directive for cause while serving as an officer, director, or senior executive management person of a financial institution; or has caused or participated in a prohibited activity or an unsafe or unsound condition at a financial institution which resulted in the suspension or revocation of the financial institution's certificate of incorporation, or authority or license to do business;

(7) has failed to complete and return a director application in accordance with subsection (c) of this section; or

(8) refuses to take and subscribe to the prescribed oath or affirmation of office.

(c) Director application. Any member nominated for, or seeking election to, the board of directors shall submit a written application in such form as the credit union may prescribe. The application shall be submitted either to the nominating committee prior to its selection of nominees; or to the board chair within 30 days following the election of a member who was not nominated by the nominating committee or who was appointed by the board to fill a vacancy. The applications of the elected/appointed directors shall be incorporated into and made part of the minutes of the first board meeting following the election/appointment of those directors. Applications of unsuccessful candidates shall be destroyed or returned upon request. The commissioner may review and require that changes be made to any application form, which is deemed inadequate or unfairly discriminates against certain classes of members.

(d) Director continuing education. Directors must develop and maintain a fundamental, ongoing knowledge of the regulations and issues affecting credit union operations to assure a safe and sound institution. A credit union shall, by written board policy, establish appropriate continuing education requirements and provide sufficient resources for directors to achieve and maintain professional competence. The policy shall include a provision requiring the credit union to prepare, on an annual basis, a continuing education plan for its Directors that is appropriate to the size and financial condition of the credit union and the nature and scope of its operations.

(e) Prohibited conduct. A director shall not:

(1) Divulge or make use of, except in the performance of office duties, any fact, information, or document not generally available to the membership that is acquired by virtue of serving on the board of the credit union.

(2) Use the director's position to obtain or attempt to obtain special advantage or favoritism for the director, any relative of the director, or any person residing in the director's household.

(3) Accept, directly or indirectly, any gift, fee, or other present that is offered or could be reasonably be viewed as being offered to influence official action or to obtain information that the director has access to by reason of serving on the board of the credit union.

(f) Recall of director(s).

(1) Petition. Under procedures set out in the credit union's bylaws, members may request a special membership meeting to consider removing the entire board or individual directors for cause relating to serious mismanagement or a breach of fiduciary duties. The board shall conduct any resulting special meeting as prescribed in the credit union's bylaws.

(2) Membership Vote. The members of a credit union may remove a director by a vote of two-thirds of those members voting at the special meeting; provided, however, that:

(A) a separate vote is conducted for each director sought to be recalled;

(B) the members voting shall constitute not less than 10% of the membership eligible to vote in the recall election;

(C) all members are given at least 30 days notice of the meeting which shall state the reasons why the meeting has been called; and

(D) the affected director(s) is afforded an opportunity to be heard at such meeting prior to a vote on removal.

(3) Vacancy on the Board. If a vacancy occurs as a result of a recall, the vacancy shall be filled by the affirmative vote of a majority of the remaining directors. If the entire board is removed as a result of the recall, the members shall fill the vacancies at the recall meeting. Directors elected to fill a recall vacancy shall hold office only until the next annual meeting when any unexpired terms shall be filled by vote of the members.

(g) Absences. Any director who fails to attend three (3) consecutive regularly scheduled meetings without an excuse approved by a majority vote of the board, or who fails to attend six (6) regularly scheduled meetings during any twelve-month period following the director's election or appointment is automatically removed from office. A new person shall be appointed to fill any vacancies resulting from poor attendance within sixty days of the date of the meeting that led to the automatic removal. The commissioner in the exercise of discretion may extend the deadline for filling the vacancy.

§91.502. Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures.

(a) Expense reimbursement. A credit union may reimburse out-of-pocket travel and related expenses that are reasonable and appropriate for the business activity undertaken. A credit union shall adopt a written board policy to administer and control travel expenses paid or incurred in connection with directors or committee members carrying out official credit union business.

(b) Payment of fees. Subject to the provisions of this rule, a credit union may pay a reasonable meeting fee to any of its directors, honorary directors, advisory directors,(hereafter referred to as directors) or committee members for attending duly called meetings at which appropriate credit union business is conducted. Any credit union electing to pay any type of meeting fee shall annually disclose to the membership the fees paid in the prior calendar year and scheduled to be paid in the current calendar year. This disclosure may be provided to the members as part of the credit union's annual report as prescribed in §91.310 of this title (relating to annual report to membership). A credit union, however, may not pay any meeting fees to a director or committee member if the credit union is operating under a Net Worth Restoration Plan; or an order issued under Finance Code §122.257 or §122.258.

(c) Enforcement Authority; Prohibition. The commissioner may prohibit or otherwise limit or restrict the payment of meeting fees to directors or committee members if, in the opinion of the commissioner, the credit union has paid, is paying, or is about to pay meeting fees that are excessive as defined in §91.502(f).

(d) Use of credit union equipment. A credit union may provide personal computers, access to electronic mail, and other electronic conveniences to directors during their terms of office provided:

(1) the board of directors determines that the equipment and the electronic means are necessary and appropriate for the directors to fulfill their duties and responsibilities;

(2) the board of directors develops and maintains written policies and procedures regarding this matter; and

(3) the arrangement ceases immediately upon the person's leaving office.

(e) Insurance. A credit union may, in accordance with written board policy, provide health, life, accident, liability, or similar personal insurance protection for directors and committee members. The kind and amount of these insurance protections must be reasonable given the credit union's size, financial condition, and the duties of the director or committee member. The insurance protection must cease upon the director or committee member's leaving office, without providing residual benefits beyond those earned during the individual's term on the board or committee.

(f) Review by board. A credit union shall implement and maintain appropriate controls and other safeguards to prevent the payment of fees or expenses that are excessive or that could lead to material financial loss to the institution. At least annually, the board, in good faith, shall review the director/committee member fees and director/committee member-related expenses incurred, paid or reimbursed by the credit union and determine whether its policy continues to be in the best interest of the credit union. The Board's review shall be included as part of the minutes of the meeting at which the policy and the fees and expenses were studied. Fees and expenses shall be considered excessive when amounts paid are disproportionate to the services performed by a director or committee member, or unreasonable considering the financial condition of the institution and similar practices at credit unions of a comparable asset size, geographic location, and/or operational complexity.

(g) Guest travel. A credit union's board may authorize the payment of travel expenses that are reasonable in relation to the credit union's financial condition and resources for one guest accompanying a director or committee member to an approved conference or educational program. The payment will not be considered compensation for purposes of Finance Code §122.062 if:

(1) it is determined by the board to be necessary or appropriate in order to carry out the official business of the credit union; and

(2) it is in accordance with written board policies and procedures.

§91.503. Change in Credit Union President

The board of directors, in executing its fiduciary responsibilities, may find it necessary to replace the credit union's president. The board shall submit written notification to the commissioner within ten days of any such personnel change. For purposes of this section, the term president refers to the individual responsible for the day-to-day operation of the credit union, irrespective of the actual title given to such individual.

§91.510. Bond and Insurance Requirements.

(a) Fidelity bond. Each credit union shall purchase and maintain a blanket fidelity bond covering the officers, directors, employees, committee members, and its agents, against loss caused by dishonesty, burglary, robbery, larceny, theft, holdup, forgery or alteration of instruments, misplacement or mysterious disappearance. All carriers writing credit union blanket bonds must be authorized by the Insurance Commissioner for the state of Texas as an acceptable fidelity on bonds in this state.

(1) Subject to approval by the credit union's board of directors, the amount of coverage to be required for each credit union shall be determined by the credit union, based on its assessment of the level that would be safe and sound in view of the credit union's potential exposure to risk.

(2) Each credit union may maintain bond coverage in addition to that provided by the insurance underwriter industry's standard forms, through the use of endorsements, riders, or other forms of supplemental coverage, if, in the judgment of the credit union's board of directors, additional coverage is warranted.

(3) The commissioner may require additional coverage of any credit union when, in his opinion, the fidelity bond in force is insufficient to provide adequate fidelity coverage. It shall be the duty of the board of directors to obtain the additional coverage within 30 days after the date of written notice of the findings by the commissioner.

(b) Cancellation. A fidelity bond must include a provision requiring written notification by the fidelity to the commissioner prior to cancellation of any or all coverages set out in the bond which includes a brief statement of cause for termination.

(c) Other insurance. Each credit union shall, subject to approval by the board, purchase appropriate insurance coverages to insure the credit union and its assets against loss or damage by fire, liability, casualty or any other insurance risks.

(d) Board review. The board of directors of each credit union shall formally approve the credit union's bond and insurance coverages. In deciding whether to approve the coverages, the board shall review the adequacy of the standard coverage and the need for supplemental coverage. Documentation of the board's approval shall be included as part of the minutes of the meeting at which the board approves coverages. Additionally, the board of directors shall review the credit union's bond and insurance coverages at least annually to assess the continuing adequacy of coverage.

(e) Review by fidelity company. Credit unions which are analyzed by a fidelity company shall notify the commissioner of the analysis within 30 days of the review commencement. The report of the review is to be provided to the commissioner upon request. The confidentiality of the report shall be preserved in the same manner afforded a report of examination conducted by the department.

(f) Insuring organization's bond requirements. A credit union shall also comply with all bond requirements imposed by an insuring organization as a condition to maintain insurance on share and deposit accounts. Any credit union that fails to meet the minimum fidelity bond specifications contained within Part 741.201 of the NCUA Rules and Regulations may be deemed to be engaged in an unsafe practice pursuant to Finance Code §122.255.

§91.515. Financial Reporting.

(a) Each credit union having assets of $5 million or greater shall:

(1) prepare and maintain, on an accrual basis, accurate and complete records of its business transactions in accordance with generally accepted accounting principles, except as otherwise directed by regulatory requirements; and

(2) prepare its financial statements and reports, including reports to the members, board of directors, management and the department, in accordance with generally accepted accounting principles, except as otherwise directed by regulatory requirements.

(b) Credit unions having assets of less than $5 million may use another comprehensive basis of accounting.

(c) In addition to the quarterly report to the department as prescribed by the Act, the commissioner may require from all credit unions or from selected categories of credit unions other financial and statistical reports relating to financial condition and accounting practices.

§91.516. Audits and Verifications.

(a) Audit requirements. At least once every calendar year, the board of directors shall obtain or cause to be performed an annual audit of the credit union which must cover the period elapsed since the last audit period. A summary of the audit must be reported to the members at the next membership meeting. The audit must be conducted in accordance with generally accepted auditing standards by a licensee of the Texas State Board of Public Accountancy or as permitted under the provisions of §741.202(a) of the National Credit Union Administration's Rules and Regulations (12 CFR, Chapter VII, Part 741).

(b) Definitions.

(1) A record-keeping deficiency is serious if the commissioner reasonably believes that the board of directors and management of the credit union have not timely met financial reporting objectives and established practices and procedures sufficient to safeguard members' assets.

(2) A serious recordkeeping deficiency is persistent when it continues beyond a usual, expected or reasonable period of time.

(c) Verification obligation. The board of directors shall, at least once every two years, cause the share, deposit, and loan accounts to be verified against the records of the credit union as prescribed in §741.202(b) of the National Credit Union Administration's Rules and Regulations (12 CFR, Chapter VII, Part 741).

(d) Remedies. The commissioner may compel a credit union to obtain an audit and/or a verification of members' accounts, performed by an independent person, for any year in which any one of the following conditions is present:

(1) the credit union has not obtained an annual audit or caused an audit/verification to be performed;

(2) the credit union has obtained an audit/verification or performed an audit/verification which does not meet the specified requirements; or

(3) the credit union has experienced serious and persistent recordkeeping deficiencies.

(e) Opinion audit required. The commissioner may compel a credit union to obtain an opinion audit performed in accordance with Generally Accepted Auditing Standards by an independent person who is licensed by the state for any year in which the credit union has experienced persistent serious recordkeeping deficiencies. The objective of such an audit is to obtain an unqualified opinion on the credit union's financial statements.

Subchapter F. Accounts and Services

§91.601. Share and Deposit Accounts.

(a) Accounts. A credit union may offer any type of share or deposit accounts and prescribe the terms and conditions relating to the accounts as established by written policies approved by the board of directors.

(b) Policies and procedures. Each credit union, before accepting any funds for any share or deposit accounts, shall adopt, implement and maintain appropriate policies and procedures which address, at a minimum, asset liability management and adequate liquidity levels.

(c) Limitation on deposit accounts. Acceptance of funds from a depositor authorized by the Act that is not within the credit union's field of membership is subject to the limitations prescribed by §123.201(b) of the Act. This restriction does not apply to a credit union accepting for deposit the money of:

(1) the United States or any agent or instrumentality of the United States;

(2) this or another state; or

(3) a political subdivision of this or another state.

(d) Nonmember deposit. The written documentation evidencing a deposit under subsection (c) of this section shall clearly and conspicuously disclose that the funds are not insured. This section does not apply to insured deposits from other credit unions or deposits received by a credit union with a low-income designation.

§91.602. Solicitation and Acceptance of Brokered Deposits.

(a) Definitions.

(1) Brokered deposit means any deposit that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker.

(2) Deposit broker means a person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with financial institutions; or the business of placing funds with financial institutions for the purpose of selling interests in the deposit to third parties.

(b) Limitation. A credit union that has a net worth ratio of less than six percent as defined in §91.901 of this title (relating to Reserve Requirements) or is not deemed adequately capitalized by its insuring organization may not accept, renew or roll over any brokered deposit unless it has been granted a waiver by the commissioner.

(c) Risk management and due diligence. Credit unions utilizing brokered deposits shall ensure that proper risk management practices are in place, including appropriate written asset/liability management policies, business strategies, concentration limits, monitoring procedures, and contingency funding plans. In addition, credit unions must implement adequate due diligence procedures before entering into a business relationship with a deposit broker.

§91.608. Confidentiality of Member Records.

(a) Confidentiality of members' accounts. No credit union officer, director, committee member or employee may disclose to any person, other than the member, or to any company or governmental body the individual savings, shares, or loan records of any credit union member, contained in any document or system, by any means unless specifically authorized to do so in writing by such members, except as follows:

(1) reporting credit experience to a bona fide credit reporting agency, another credit union, or any other bona fide credit-granting business and/or merchants information exchange, provided that applicable state and federal laws and regulations pertaining to credit collection and reporting are followed;

(2) furnishing information in response to a valid request from a duly constituted government agency or taxing authority, or any subdivision thereof, including law enforcement agencies;

(3) furnishing information, orally or in written form, in response to the order of a court of competent jurisdiction or pursuant to other processes of discovery duly issuing from a court of competent jurisdiction;

(4) furnishing reports of loan balances to co-borrowers, co-makers, and guarantors of loans of a member and of share or deposit account balances, signature card information, and related transactions to joint account holders;

(5) furnishing information to and receiving information from check and draft reporting, clearing, cashing and authorization services relative to past history of a member's draft and checking accounts at the credit union; or

(6) as otherwise authorized by law, including access by examiners of the Department.

(b) Non-disclosure statement. Nothing in this rule shall prohibit the credit union from releasing the name and address of members to assist the credit union in its marketing efforts or sale of third party products, provided, however, that the credit union obtains a written non-disclosure statement providing assurances that the information will be used exclusively for the benefit of the credit union and no other.

(c) Privacy policy. Each credit union shall develop, implement and maintain a written policy on the protection of nonpublic personal information of individual members in its possession. This policy shall be consistent with the disclosure and reporting requirements applicable to federally insured credit unions as addressed in Part 716 of NCUA Rules and Regulations.

(d) Relation to federal laws. This section shall not be construed as altering or affecting any applicable federal statute, regulation, or interpretation that affords a member greater protection than provided under this section.

§91.610. Safe Deposit Box Facilities.

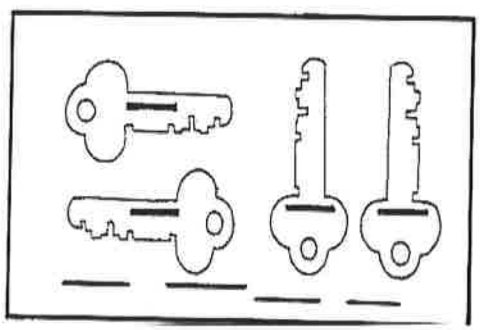
(a) Purpose. Finance Code §59.110 requires credit unions to imprint keys issued to safe deposit boxes with the institution's routing number. In addition, it requires a report to the Department of Public Safety if the routing number is altered or defaced so that the correct routing number is illegible. The purpose of this section is to clarify the requirements of the noted section of the Finance Code.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Credit union — This term includes all state or federal credit unions that have been assigned a routing number unique to that institution.

(2) Routing number — The number printed on the face of a share draft or check in fractional form or in nine-digit form that identifies a paying financial institution.

(c) Imprinting requirements. A credit union which has been issued a routing number shall imprint that routing number on safe deposit box keys on either the head of the key or the shank of the key if there is adequate room. The typical locations to be used are indicated in the following instructions and diagram. The imprint can be made anywhere on the key that has the required space available. When positioning the die on the key, be careful to place the die on the key where it will imprint on a flat surface and not in the area of the key cuts or on any of the shank ridges or grooves. Imprinting in these areas may interfere with the proper working of the key in the lock and may cause damage. In the event these standard areas for the location of the imprint are unavailable, either because of grooves on the key shank or the fact that the head of the key already has names and other numbers imprinted on it, then the credit union may attach to the key a tag imprinted with the routing number. The tag used must be of such a nature as to be secure. Thus, a paper or cardboard tag or a tag affixed with string will not be acceptable. However, any other medium such as plastic or metal which can retain an imprint of a number shall be acceptable. The tag may be attached in any way to assure its affixation to the key. Typically, this will mean inserting the tag or a device to affix the tag through the hole in the head of the key normally used for placing keys on key chains. The tag method shall not be used if there is adequate room on the key itself for imprinting the numbers. There are four standard areas for the location of the imprinted routing number. These include: the head of the key, the shank of the key, and either place on the reverse side of the key. The standard imprint areas are shown as follows.



(d) Branch designation. A credit union may, but is not required to, add a three-digit branch designation to its routing number. Thus, the main credit union facility should receive the designation "001" and branch facilities should receive numbers consecutively beginning with "002" with successive numbers as needed. However, the credit union may control the branch numbering system used provided that the credit union maintains a master list of branch designations used for this purpose. The master list should be maintained at the main office of the credit union and shall include the three-digit branch designation and address of facility. The credit union then may imprint safe deposit box keys or tags with the routing number plus three-digit branch designation for full identification of the facility.

(e) Report of defaced or altered key. Within 10 days after an officer or employee of a credit union observes that a key used to access a safe deposit box has had the routing number altered or defaced or the tag removed, a report shall be prepared of such incident. The report shall be on a form promulgated by the Credit Union Department in the form of the attached **Exhibit A**. The report should be submitted to the Department of Public Safety, Attention: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001. The report should be mailed no later than ten days after the incident. The credit union should retain one copy of the incident report for a period of three years. Nothing in this rule nor in the Finance Code §59.110 shall require a credit union to inspect routing numbers imprinted on a key or an attached tag to determine if the number has been altered or defaced.

(f) Effective date; applicability to existing keys. A credit union must imprint all safe deposit box keys on or after September 1, 1992. Additionally, the imprinting requirement applies to all keys issued prior to September 1, 1992. However, keys for boxes rented prior to September 1, 1992, need not be imprinted with the routing number unless and until a member presents a safe deposit box key at a credit union for access to a box. Nothing in this rule or the Finance Code §59.110 shall be construed to require a credit union to provide notice to its safe deposit box users or to otherwise require such members to present their keys for imprinting. However, on the first date after September 1, 1992, that a member presents a key which has not been imprinted, the credit union shall imprint the key with the routing numbers as required by Finance Code §59.110.

(g) Effect of change in routing number. In the event a credit union's routing number is changed as a result of a merger, acquisition, or other change, safe deposit box keys need not be replaced with a new routing number provided that the credit union maintains a master list of the routing numbers used to imprint keys.

REPORT OF DEFACED OR ALTERED ROUTING NUMBER ON SAFE DEPOSIT BOX KEY

INSTRUCTIONS: Complete the information below and submit the original report to Department of Public Safety, Attn: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001, no later than 10 days after the defaced or altered key is used to access the box. Retain one copy for your files for a period of three years.

CREDIT UNION INFORMATION

Name of credit union ______________________________

Address of safe deposit box facility ______________________________

____

Name and title of contact person at facility ______________________________

____

Area code and phone number of facility ______________________________

Routing number and branch designation (if any) ______________________________

INCIDENT INFORMATION

Member name ______________________________

Date member presented defaced or altered key ______________________________

Description of problem with key ______________________________

____

____

Date of reports: ____________________

Exhibit A

INTERNAL RISK ASSESSMENT REPORT

F. (b) Discussion, Consideration, and Possible Vote to Approve and Authorize the Submission of the Department's Annual Internal Risk Assessment Report as Required by Section 2102, Government Code.

BACKGROUND: Section 2102.013 of the Texas Government Code requires state agencies which meet certain requirements to conduct a formal risk assessment each year and submit the assessment to the State Auditor's Office. The Department has completed the internal risk review and has prepared the required written assessment of the risks for submission to the State Auditor's Office.

RECOMMENDED ACTION: The Department requests that the Commission approve the 2015 Internal Risk Assessment Report and authorize its submission to the State Auditor's Office.

RECOMMENDED MOTION: I move that the Commission approve the Department's Internal Risk Assessment Report for 2015 and authorize its submission to the State Auditor's Office.

Activities from Brainstorming -- CREDIT UNION DEPARTMENT									
1	perform regular and remedial examinations	13	purchase supplies	25	approve/ deny applications	37	work with federal regulator	49	
2	monitor credit unions	14	report to state agencies	26	pay bills	38	prepare for new programs	50	
3	answer questions from credit unions and public	15	prepare examination reports	27	maintain financial records	39	maintain NASCUS accreditation	51	
4	hire and manage employees	16	manage office paperwork	28	prepare/submit financial reports	40		52	
5	maintain employee policies & records	17	comply with state/ federal regulations	29	maintain computer security	41		53	
6	manage employees	18	respond to complaints	30	maintain supply inventory	42		54	
7	manage examiner travel	19	manage computer system	31	maintain building	43		55	
8	manage examination schedule	20	issue interpretations and opinions	32	maintain office procedures	44		56	
9	meet with industry representatives	21	review, revise rules	33	report to Legislature	45		57	
10	hold Commission & committee meetings	22	publishing rules	34	draft legislation	46		58	
11	hold public hearings	23	send new rules to credit unions	35	maintain agency website	47		59	
12	report to Commission	24	receive, review, & publish applications	36	maintain secure office building	48		60	

AGENCY NAME

CREDIT UNION DEPARTMENT	Internal Risk Assessment FY2012	
CONSOLIDATED ACTIVITIES		PRIORITIZED CONSOLIDATED ACTIVITIES
	1	Perform Cost-Effective Comprehensive Examinations of Credit Unions
	2	Process, Investigate, and Evaluate Applications
	3	Finance and Accounting
	4	Purchasing
	5	IT
	6	Human Resources
	7	Complaints and education

RISK ASSESSMENT TABLE–PRE CONTROLS–CREDIT UNION DEPARTMENT

PRIORITY	CONSOLIDATED ACTIVITY	IMPACT RATING	PROBABILITY RATING	RISKS 1	IMPACT RATING	PROBABILITY RATING	RISKS 2	IMPACT RATING	PROBABILITY RATING	RISKS 3	IMPACT	PROBABILITY RATING	RISKS 4	IMPACT RATING	PROBABILITY RATING	RISKS 5	IMPACT RATING	PROBABILITY RATING	RISKS 6	IMPACT RATING	PROBABILITY RATING	RISKS 7	IMPACT RATING	PROBABILITY RATING	RISKS 8	IMPACT RATING	PROBABILITY RATING	RISKS
1	Examination & supervision	M	H	Inconsistent Enforcement	H	H	Employee Turnover/ Inexperienced Staff/Poor Morale from Salary or Benefit Cutbacks	M	H	Inconsistent Exam Procedures/ Exam Integrity	H	M	Loss of Agency Credibility	H	H	Lack of Adequate Training for Staff	H	H	Failure of CUs	M	H	Failure to Meet Deadlines	H	M	Loss of CUs as Low Cost Financial Institutions			
2	Evaluate Applications	M	M	Information Not Accessible to Credit Unions	L	L	Failure to Meet Deadlines	H	M	Inaccurate Information Provided	M	M	Inconsistent Approval	H	M	Weaker CU System	M	L	Loss of Agency Credibility									
3	Finance & Accounting	H	M	Insufficient Fees Collected	H	M	Theft/ Embezzlement	M	M	Loss of Assets	H	M	Overspending Budget	H	M	Inaccurate Payroll Processing	H	M	Lack of Backup	H	M	Non-Compliance with APS	M	M	Inaccurate Reporting			
4	Purchasing	H	M	Fraudulent Purchasing	H	M	Late Delivery of Critical Items	M	M	Incorrect Coding	M	M	Lack of Authorization/ Failure to Follow Purchasing Rules	M	M	Insufficient HUB Purchases	M	M	Wasteful Purchases	M	M	No Delivery Slip	M	H	Loss of Delegated Authority			
5	IT	H	H	Department Applications Failure	H	H	System Security Breach (External)	M	M	Hardware Failure	H	H	System Security Vulnerabilities	H	M	Lost or Compromised Data	H	H	Employee Turnover/No Backup	H	M	Employee Harm to Data or Equipment	M	H	IT Services Unavailability			
6	Human Resources	H	H	Inadequate staff coverage due to turnover	M	M	Inaccurate Assessment of Employees	M	M	Worker's Comp/ Unemployment Claims	H	M	Non-Compliance with Laws/ Changes in Laws	H	M	Lawsuits	M	M	Poor Morale from Low Salary or Benefits	M	L	Absenteeism						
7	Complaints & Education	M	H	Inadequate investigation of complaints	H	M	Loss of Agency Credibility	M	M	Inaccurate Information Provided																		

RISK ASSESSMENT TABLE--POST CONTROLS--CREDIT UNION DEPARTMENT

PRIORITY	CONSOLIDATED ACTIVITY	IMPACT RATING	PROBABILITY RATING	RISKS 1	IMPACT RATING	PROBABILITY RATING	RISKS 2	IMPACT RATING	PROBABILITY RATING	RISKS 3	IMPACT	PROBABILITY RATING	RISKS 4	IMPACT RATING	PROBABILITY RATING	RISKS 5	IMPACT RATING	PROBABILITY RATING	RISKS 6	IMPACT RATING	PROBABILITY RATING	RISKS 7	IMPACT RATING	PROBABILITY RATING	RISKS 8	IMPACT RATING	PROBABILITY RATING	RISKS
1	Examination & Supervision	M	L	Inconsistent Enforcement	H	M	Employee Turnover/ Inexperienced Staff	M	L	Inconsistent Exam Procedures/ Exam Integrity	M	L	Loss of Agency Credibility	H	L	Lack of Adequate Training for Staff	H	M	Failure of CUs	M	L	Failure to Meet Deadlines	M	L	Loss of C Us as Low Cost Financial Institutions			
2	Evaluate Applications	M	L	Information Not Accessible to Credit Unions	M	L	Failure to Meet Deadlines	M	L	Inaccurate Information Provided	M	L	Inconsistent Approval	M	L	Weaker CU System	M	L	Loss of Agency Credibility									
3	Finance & Accounting	H	L	Insufficient fees collected	H	L	Theft/ Embezzlement	M	L	Loss of Assets	H	L	Overspending Budget	H	L	Inaccurate Payroll Processing	H	L	Lack of Backup	H	L	Non-Compliance with APS	M	L	Inaccurate Reporting			
4	Purchasing	H	L	Fraudulent Purchasing	H	L	Late Delivery of Critical Items	M	L	Incorrect Coding	M	L	Lack of Authorization/ Failure to Follow Purchasing Rules	M	L	Insufficient HUB Purchases	M	L	Wasteful Purchases	M	L	No Delivery Slip	M	L	Loss of Delegated Authority			
5	IT	H	M	Department Applications Failure	M	L	System Security Breach (External)	H	L	Hardware Failure	H	L	System Security Vulnerabilities	M	L	Lost or Compromised Data	H	M	Employee Turnover/No Backkup	M	L	Employee Harm to Data or Equipment	M	L	IT Services Unavailability			
6	Human Resources	M	M	Inadequate staff coverage due to turnover	M	L	Inaccurate Assessment of Employees	M	L	Worker's Comp/ Unemployment Claims	H	L	Non-Compliance with Laws/ Changes in Laws	M	L	Lawsuits	M	M	Poor Morale	M	L	Absenteeism						
7	Complaints & Education	M	M	Inadequate investigation of complaints	M	L	Loss of Agency Credibility	M	L	Inaccurate Information Provided																		

RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT

Consolidated Activity: Examination RISKS CONTROL STEPS	Inconsistent enforcement	Employee turnover/ inexperienced staff/poor morale from salary or benefit cutbacks	Inconsistent exam procedures/ exam integrity	Loss of Agency Credibility	Lack of adequate training for staff	Failure of CUs	Failure to meet deadlines	Loss of CUs as low cost financial institutions	
Standardized exam software program	x		x	x	x	x			
Management review of all exam reports	x		x	x	x	x	x	x	
NASCUS accreditation & annual review	x		x	x	x	x		x	
Joint oversight with deposit insurer	x		x	x	x	x		x	
Training program	x	x	x	x	x		x	x	
Employee performance evaluations	x	x	x		x		x		
Quarterly monitoring of CU financial data	x		x	x		x		x	
Periodic rule review by Commission	x		x	x					
Career ladder/merit raises		x		x					
Experienced management oversight	x	x	x	x	x	x	x	x	
Examiner's Guide	x		x	x	x	x		x	
Performance measures	x			x	x		x		
Management information systems	x		x	x	x	x	x		
Technology tools for field examiners	x	x	x	x	x	x	x	x	

RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT

Consolidated Activity: Evaluate Applications RISKS CONTROL STEPS	Information not accessible to credit unions	Failure to meet deadlines	Inaccurate information provided	Inconsistent approval	Weaker credit union system	Loss of Agency Credibility			
Management information systems		x	x	x		x			
Management oversight	x	x	x	x	x	x			
Written policies and procedures	x	x	x	x					
Performance measures	x	x			x	x			
Training program		x	x	x					
Cross-training		x	x						
Right to SOAH appeal	x	x	x	x		x			
Periodic rule review by Commission	x	x	x	x	x	x			
Publications: website/newsletter	x		x						

RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT

Consolidated Activity: Finance & Accounting RISKS CONTROL STEPS	Insufficient Fees Collected	Theft/ embezzlement	Loss of assets	Overspending budget	Inaccurate payroll processing	Lack of backup	Non-compliance with APS	Inaccurate Reporting	
Reconciliation	x	x	x	x	x		x	x	
Segregation of duties		x	x	x	x		x	x	
Written policy and procedures	x	x	x	x	x	x	x	x	
Audit by oversight agencies		x	x		x		x	x	
Budget monitoring	x		x	x	x				
Completion of performance measures								x	
Training/ cross training		x	x	x	x	x	x	x	
Enforcement of fees for delinquencies	x		x						

RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT

Consolidated Activity: Purchasing RISKS → CONTROL STEPS ↓	Fraudulent purchasing	Late delivery of critical items	Incorrect coding	Lack of authorization/ failure to follow purchasing rules	Insufficient HUB purchases	Wasteful purchases	Loss of delegated authority	
Procurement plan				x	x	x	x	
Separation of duties	x			x			x	
Multiple signatures	x			x		x	x	
Requisition log	x	x		x		x	x	
Purchasing training		x	x	x	x		x	
Policies, manuals, website resources		x	x	x	x		x	
HUB policy				x	x		x	
Audits	x		x	x			x	
Internal purchasing review	x	x	x	x	x	x	x	
Assign specific purchasing duties	x	x		x		x	x	

RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT

Consolidated Activity: IT RISKS → CONTROL STEPS ↓	Department Applications Failure	System security breach (external)	Hardware failure	System Security Vulnerabilities	Lost or compromised data	Employee turnover/lack of backup	Employee Harm to Data or Equipment	IT Services Unavailability	
Back-up Systems & Procedures/Contract IT support	x	x	x	x	x	x		x	
Off-site storage	x		x		x		x	x	
Upgrade Hardware & Software	x	x	x	x	x			x	
Update software	x	x	x	x	x	x		x	
Maintain firewall	x	x		x	x		x	x	
User access profile		x		x	x	x	x		
Maintenance agreements	x	x	x	x		x		x	
IT Training for IT & Department Employees	x	x	x	x	x	x	x	x	
DIR security test		x		x	x		x	x	
Written procedures	x	x	x	x	x	x	x	x	

RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT

Consolidated Activity: Human Resources RISKS CONTROL STEPS	Inadequate staff coverage due to turnover	Inaccurate assessment of employees	Worker's comp/ unemployment claims	Non-compliance with laws/ changes in laws	Lawsuits	Poor morale from low salary or benefits	Absenteeism
Employee performance evaluation	x	x		x	x	x	x
Cross-training	x			x	x	x	x
Written policies and procedures	x		x	x	x		x
Standardized screening of applicants				x	x		
Training	x	x	x	x	x	x	x
Written job descriptions	x	x	x	x	x		x
Written staff succession plan	x			x	x		

Consolidated Activity: Complaints and education RISKS CONTROL STEPS	Inadequate investigation of complaints	Inaccurate information provided	Loss of Agency Credibility	
Investigation procedures	x	x	x	
Training	x	x	x	
Survey of complainant satisfaction	x	x	x	
Consumer resources on website	x	x	x	
Laws and rules acessible through website	x	x	x	

Significant Changes in Risk Assessment - *CREDIT UNION DEPARTMENT*

New Risks Identified in FY 2014 - List by Consolidated Activity	No new risks identified in FY 2014.
Changes, Additions, Deletions in Control Steps - List by Consolidated Activity	No material changes, additions, or deletions, in FY 2014.

POLICIES MANUAL

F. (c) Discussion, Consideration, and Possible Vote to Amend the Commission's Policies Manual, as Part of its Annual Policy Review Plan.

BACKGROUND: In accordance with policy, the Commission is required to review its policies manual at least once each year. At this time, staff has no recommendation for changes to any of the policies contained in the Manual.

RECOMMENDED MOTION: Unless the Commission members have suggested modifications to the policies, the record will reflect that the Commission has reviewed the manual and no modifications are necessary at this time.

DEPARTMENT'S GENERAL BUDGET ASSUMPTIONS AND PARAMETERS

F. (d) Discussion, Consideration, and Possible Vote to Adopt the General Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2016 Budget.

BACKGROUND: Finance Code Section 16.003 gives the Commission the exclusive responsibility for approving the Department's budget each year. Since the budget must be adopted at the June meeting, staff is seeking approval of guidelines for developing the FY 2016 budget to present at the June meeting.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the necessary budget policies and guidelines for the FY 2016 budget.

RECOMMENDED MOTION: I move that the Commission adopt the proposed budget assumptions and parameters for FY 2016 as recommended by Staff.

BUDGET ASSUMPTIONS FOR FY 2016

The following broad assumptions will establish the basic foundation for development of the Department's FY 2016 budget and provide a framework to staff and the Commission for setting priorities, determining service levels, and allocating limited financial resources.

1. **Balance Budget** – In accordance with Commission policy, the budget will be balanced using FY2015 ending reserve balance funds in excess of the aggregate contingency reserves limit.
2. **Contractual Obligations** – The Department intends to meet all contractual obligations.
3. **Compliance** – The budget shall provide sufficient funding to continue compliance with all applicable statutes, governmental requirements, administrative rules, and Department policy in regulating and supervising the safety and soundness of credit unions.
4. **Strategic Plan Initiatives** – Consistent with the FY 2015-2019 strategic plan, the budget will provide appropriate funding to implement the delineated initiatives for FY 2016.
5. **Salary and Benefits** – The expenditures for FY 2016 will be based on authorized and existing positions as of August 31, 2015 and include any scheduled salary increase/promotion prescribed in the *Salary Administration Plan for Examination Staff*. Filled position will be budgeted at the actual salary for the individual in that position and vacant positions will be budgeted at the mid-point of the salary range for the positions. Employee Benefits will be automatically calculated on all salaries with the appropriate benefit rates established for state agencies.
6. **Merit Increases** – To foster, support, and reward outstanding performance and to retain key high performing staff, aggregate merit increase awards for staff will not exceed an amount equivalent to 4% of the total salaries for those positions and will be awarded based on the established merit pay tiers. The corresponding increase in Employee Benefits, resulting from the proposed merit awards, will also be properly reflected in the budget.
7. **Inflation Factor** – No inflationary increases are anticipated, with the exception of increases in the cost of utilities and travel.
8. **Statewide Indirect Cost** – Statewide indirect cost allocations are a result of a statewide plan established by the Comptroller of Public Accounts. Changes in indirect cost allocations are anticipated to be allowable budget adjustments.

9. **Out-of-State Travel** – Travel related to regulatory matters, including examinations, inspections, and the training will be exempt from the limitations on out-of-state travel; expenditures for all other out-of-state travel by the Department will not exceed $10,000.
10. **Electronic Document Management System** – The budget shall provide funding to continue implementation of the next phase of the electronic document management solution and cover the associated annual cost for the capture and storage of documents.
11. **Information Technology** – The budget shall provide sufficient funding for computer network upgrades and computer equipment replacement in accordance with the Information Resources Strategic Plan.
12. **Improvements** – The budget shall provide sufficient funding for scheduled maintenance and repairs in accordance with the Replacement/Capital Improvement Plan.
13. **NASCUS Dues** – The budget shall provide sufficient funding to accommodate the projected increase in the professional association's dues.
14. **Accreditation Fees** – The budget shall provide sufficient funding to accommodate the fees associated with the Department's continued NASCUS accreditation.
15. **Overnight Travel Stipend** – A portion of any unobligated and unexpended funds in the FY 2016 budget may be used to pay examiners an overnight travel stipend for any overnight stays in excess of 60 days out. The daily rate paid will be in accordance with the qualifying conditions included in the Department's policy. The stipend will not be considered a one-time merit award and may be paid to the eligible examiners regardless of their last merit pay or promotion action.

<u>RESOLUTIONS COMMEMORATING CREDIT UNIONS</u>

F. (e) Discussion, Consideration, and Possible Vote to Adopt Resolutions Commemorating First Basin Credit Union, Fort Worth Community Credit Union, Metro Medical Credit Union, LCRA Credit Union and Space City Credit Union for their Contributions to the Citizens of Texas on the Respective Milestone Anniversary Dates of their Origin.

BACKGROUND: In accordance with Section VII. D of the Commission's Policies Manual, the Commission may adopt resolutions honoring credit unions for reaching certain milestones dates.

RECOMMENDED MOTION: I move that we adopt the Resolutions Commemorating **First Basin Credit Union, Fort Worth Community Credit Union, Metro Medical Credit Union, LCRA Credit Union and Space City Credit Union** for their Contributions to the Citizens of Texas on the Respective Milestone Anniversary of their Origin and that a copy of the appropriate resolutions be mailed to the credit unions.

CONGRATULATORY RESOLUTION

Whereas, First Basin Credit Union, Odessa, Texas, was issued Charter #598 and opened for business on February 25, 1965, under the name of Medical Center Employees Credit Union; and

Whereas, First Basin Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and

Whereas, First Basin Credit Union holds total assets in excess of $203 million as of December 31, 2014, reflecting strong performance and capable management; now therefore,

Be it Resolved, that the Credit Union Commission congratulates **First Basin Credit Union** on its **50** years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and

Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.

READ, ADOPTED, AND APPROVED unanimously by the Credit Union Commission, State of Texas, this 20th day of February, 2015.

Manuel "Manny" Cavazos, Chairman

CONGRATULATORY RESOLUTION

Whereas, Fort Worth Community Credit Union, Bedford, Texas, was issued a Federal Charter and opened for business on February 15, 1940, under the name of Fort Worth Federal Credit Union; and on May 1, 2001, converted to a State charter #935 under the name of Fort Worth Community Credit Union; and

Whereas, Fort Worth Community Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and

Whereas, Fort Worth Community Credit Union holds total assets in excess of $816 million as of December 31, 2014, reflecting strong performance and capable management; now therefore,

Be it Resolved, that the Credit Union Commission congratulates **Fort Worth Community Credit Union** on its **75** years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and

Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.

READ, ADOPTED, AND APPROVED unanimously by the Credit Union Commission, State of Texas, this 20th day of February, 2015.

Manuel "Manny" Cavazos, Chairman

CONGRATULATORY RESOLUTION

Whereas, Metro Medical Credit Union, Dallas, Texas, was issued Charter #610 and opened for business on July 16, 1965, under the name of Dallas County Hospital District Employees Credit Union; and

Whereas, Metro Medical Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and

Whereas, Metro Medical Credit Union holds total assets in excess of $66 million as of December 31, 2014, reflecting strong performance and capable management; now therefore,

Be it Resolved, that the Credit Union Commission congratulates **Metro Medical Credit Union** on its **50** years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and

Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.

READ, ADOPTED, AND APPROVED unanimously by the Credit Union Commission, State of Texas, this 20th day of February, 2015.

Manuel "Manny" Cavazos, Chairman

CONGRATULATORY RESOLUTION

Whereas, LCRA Credit Union, Austin, Texas, was issued a Federal Charter and opened for business in 1940, under the name of LCRA Federal Credit Union; and on May 21, 1962, converted to a State charter #537 under the name of LCRA Credit Union; and

Whereas, LCRA Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and

Whereas, LCRA Credit Union holds total assets in excess of $24 million as of December 31, 2014, reflecting strong performance and capable management; now therefore,

Be it Resolved, that the Credit Union Commission congratulates **LCRA Credit Union** on its **75** years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and

Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.

READ, ADOPTED, AND APPROVED unanimously by the Credit Union Commission, State of Texas, this 20th day of February, 2015.

Manuel "Manny" Cavazos, Chairman

CONGRATULATORY RESOLUTION

Whereas, Space City Credit Union, Houston, Texas, was issued Charter #606 and opened for business on May 20, 1965, under the name of Stewart & Stevenson Credit Union; and

Whereas, Space City Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and

Whereas, Space City Credit Union holds total assets in excess of $69 million as of December 31, 2014, reflecting strong performance and capable management; now therefore,

Be it Resolved, that the Credit Union Commission congratulates **Space City Credit Union** on its **50** years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and

Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.

READ, ADOPTED, AND APPROVED unanimously by the Credit Union Commission, State of Texas, this 20th day of February, 2015.

Manuel "Manny" Cavazos, Chairman

LEGISLATIVE ISSUES

F. (f) Discussion and Consideration of Legislative Issues and Activities Relating to the 84th Regular Session that may Impact the Department or Credit Unions under its Jurisdiction.

BACKGROUND: The 84th Texas Legislature convened on Tuesday, January 13, for its 140-day Regular Session. With so many new faces and a wholesale change in all of the statewide offices, the Session sets up as somewhat of a puzzle. The state's solid financial condition will serve to heighten the discussion of priorities. Based early comments, issues such as lowering taxes, securing the border, reforming the state's economic development incentive programs, ending transportation diversions, improving state contracting and addressing school finance, will receive considerable attention from the Legislature.

Dates of Interest

Friday, March 13, 2015 – Deadline for filing bills.

Monday, June 1, 2015 – Last day of 84th Regular Session.

Sunday, June 21, 2015 – Last day Governor can sign or veto bills passed during the 84th Regular Session.

Monday, August 31, 2015 – Date that bills without specific effective dates become law.

RECOMMENDED ACTION: No formal action is anticipated.

Sunset Advisory Commission

Staff Study with Commission Decisions

Self-Directed Semi-Independent
Status of State Agencies

December 2014

Sunset Advisory Commission

Senator Jane Nelson *Chair*	**Representative Four Price** *Vice Chair*
Senator Brian Birdwell	Representative Cindy Burkett
Senator Donna Campbell	Representative Harold V. Dutton, Jr.
Senator Juan "Chuy" Hinojosa	Representative Larry Gonzales
Senator Charles Schwertner	Representative Richard Peña Raymond
Dawn Buckingham, M.D.	Tom Luce

Ken Levine
Director

Cover Photo: The Texas State Capitol was completed in 1888. With the Goddess of Liberty atop the dome, the Texas State Capitol Building is 19 feet taller than the U.S. Capitol Building in Washington, D.C. The photo shows the north facade of the Capitol. The gardens in the foreground sit atop a 667,000 square foot underground structure, the Capitol Extension, which houses many legislators' offices and committee rooms. Photo Credit: Janet Wood

Self-Directed Semi-Independent Status of State Agencies

Sunset Staff Study with Commission Decisions
December 2014

This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and the public.

- *Sunset Staff Study, October 2014* – Sunset staff develops a separate report on each individual agency, or on a group of related agencies. Each report contains both statutory and management recommendations developed after the staff's extensive evaluation of the agency.

- *Sunset Staff Study with Hearing Material, November 2014* – Adds responses from agency staff and the public to Sunset staff recommendations, as well as new issues raised for consideration by the Sunset Commission at its public hearing.

- *Sunset Staff Study with Decision Material, December 2014* – Adds additional responses, testimony, or new issues raised during and after the public hearing for consideration by the Sunset Commission at its decision meeting.

- *Sunset Staff Report with Commission Decisions, December 2014* – Adds the decisions of the Sunset Commission on staff recommendations and new issues. Statutory changes adopted by the Commission are presented to the Legislature in the agency's Sunset bill.

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Summary

Summary

In 2001, the Legislature enacted the Self-Directed Semi-Independent (SDSI) Project Act and granted the Accountancy, Architecture, and Engineers boards SDSI status. Having SDSI status gives an agency the authority to operate outside of the appropriations process by making the agency entirely responsible for its own operations and expenses, including establishing its own budget and setting its fees accordingly.

From the beginning, oversight agencies and the Legislature had questions and concerns about the soundness of the policy decision to give state agencies so much independence, and whether or not the SDSI concept would prove effective. Proponents of the SDSI concept pointed to benefits such as agencies being able to offer higher salaries to recruit and retain more experienced staff and to respond more quickly to changing regulatory environments. However, these claims were tempered by the inherent risks associated with the significant loss of legislative oversight of these agencies.

The State's piecemeal approach to granting SDSI status limits needed and consistent oversight.

These ongoing questions and concerns led to several legislatively directed Sunset evaluations of the SDSI Act. In each of these evaluations, Sunset found no evidence of agencies running amok, as many feared. In fact, Sunset's evaluation of the SDSI Act in 2012 found that the three original SDSI agencies were operating appropriately and that the SDSI Act was working as intended. As such, the Sunset Commission recommended continuing the SDSI Act and removing its pilot project status in 2013, and the Legislature agreed. However, the Sunset evaluation also found that the SDSI Act did not provide needed safeguards to ensure ongoing oversight and prevent potential abuse. In response, the Legislature enacted several additional requirements to address these concerns. While these requirements addressed Sunset's concerns, they only applied to the three original agencies under the SDSI Act.

Since 2001, five other agencies gained SDSI status through provisions added to their own individual agency statutes, not through the SDSI Act (the Texas Department of Banking, Texas Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, Credit Union Department, and Texas Real Estate Commission, including the Texas Appraiser Licensing and Certification Board). This piecemeal approach to granting SDSI status has resulted in inconsistent statutory requirements among the SDSI agencies — in particular, the new safeguards that are only found in the SDSI Act — which limits needed and consistent oversight.

To address concerns with the inconsistent approach to granting SDSI status and continued reservations about the SDSI concept overall, the 83rd Legislature directed Sunset to conduct yet another SDSI study and report its results and recommendations to the Legislature prior to the 84th Legislative Session. This

> ***SDSI Agencies Study***
>
> The Sunset Commission study must address the following aspects of the State's approach toward managing the SDSI status of state agencies:
>
> - criteria and processes for determining whether a state agency should be given SDSI status or if this status should be revoked;
> - appropriations issues related to transitioning an agency to SDSI status or back to regular agency status;
> - reporting and measures to ensure adequate state oversight of SDSI agencies;
> - procedures for SDSI agencies to contract with other agencies;
> - procedures for Sunset review of SDSI status; and
> - criteria for review of complaint procedures and disposition.

current study focuses on the State's approach to the SDSI process overall, specifically the criteria for granting and revoking SDSI status, requirements to ensure adequate oversight of SDSI agencies, and any appropriations issues related to transitioning an agency to and from SDSI status. The textbox, *SDSI Agencies Study*, details this charge. Several elements of the study have already been addressed, as SDSI status already authorizes SDSI agencies to contract for services, including with other state agencies, and criteria related to the review of complaints already exist as part of Sunset's model standards and would be applied during the review of an SDSI agency under a Sunset review.

Overall, this study determined that the State has an undefined and inconsistent approach to managing the SDSI process, which exposes the State to unnecessary risk. No single entity is responsible for administering and overseeing the SDSI process. Therefore, a comprehensive process with clearly-defined requirements for obtaining and retaining SDSI status does not exist. Instead, the Legislature has granted SDSI status haphazardly, through various statutes, resulting in agencies gaining SDSI status with minimal vetting, and operating with different reporting requirements and inconsistent oversight. Without a single SDSI process in place, agencies will continue to ask for and potentially gain unique SDSI provisions within their own statutes that undermine effective oversight. Additionally, the concerns about accountability and oversight of SDSI agencies are magnified when considering granting SDSI status to health-related and larger licensing agencies, where fiscal mismanagement and lax regulation can directly affect the lives of thousands of Texans.

> ***Please note: Summaries of Sunset Commission decisions on each of the following staff recommendations are located at the end of the detailed discussion of each issue.***

Summary of Results

As a result of this study, Sunset staff provides the Sunset Commission the following recommendations regarding the self-directed semi-independent status of state agencies.

- Require the Legislative Budget Board to develop and administer a process for obtaining SDSI status and overseeing SDSI agencies.
- Expand reporting and monitoring requirements of agencies subject to the SDSI Act to help improve oversight.
- Place all current SDSI agencies under the SDSI Act.
- The Senate Finance and House Appropriations Committees should consider establishing a moratorium on expanding SDSI status during the 84th Legislative Session.

Study Results

SDSI Timeline

2001 Legislature enacts SDSI Project Act and grants SDSI status to:

- Texas State Board of Public Accountancy
- Texas Board of Professional Engineers
- Texas Board of Architectural Examiners

2002–2003 Sunset Commission reviews the SDSI Act and recommends its abolishment. However, the Legislature continues the SDSI Act and requires Sunset to conduct a subsequent review in 2009, giving SDSI agencies more time to establish a record under the SDSI Act. (Senate Bill 1382, Armbrister)

2009 The Legislature postpones the Sunset review of the SDSI Act to align it with the review of the SDSI agencies in 2013. (House Bill 3249, Truitt)

Legislature grants SDSI status to the following agencies but not under the SDSI Act (House Bill 2774, Truitt):

- Texas Department of Banking
- Texas Department of Savings and Mortgage Lending
- Office of Consumer Credit Commissioner
- Credit Union Department

2011 Legislature grants SDSI status to the following agencies but not under the SDSI Act:

- Texas Real Estate Commission (Senate Bill 1000, Eltife)
- Texas Appraiser Licensing and Certification Board (Senate Bill 1000, Eltife)
- Two divisions within the Texas Department of Insurance (Senate Bill 1291, Hegar)

2012–2013 Sunset Commission reviews the SDSI Act and recommends its continuation. The Legislature continues the SDSI Act. (House Bill 1685, Price)

The Legislature requires Sunset to review the standards for granting SDSI status to state agencies and issue a report in 2015. (House Bill 1675, Bonnen)

As a result, the 83rd Legislature clarified that agencies under the SDSI Act must comply with all state laws that do not conflict with SDSI status and use the comptroller's Uniform Statewide Accounting System. In addition, the Legislature required these SDSI agencies to remit administrative penalties to general revenue and include more detailed budgetary and performance data in their annual reports. The Legislature also required the Sunset Commission to review the SDSI status of all agencies under the SDSI Act as part of their Sunset review and required SDSI agencies to pay these review costs.[4]

Further, the Legislature required Sunset, in consultation with the Legislative Budget Board (LBB), to perform another study on the SDSI status of state agencies to specifically address criteria for granting and revoking SDSI status, adequate oversight of SDSI agencies, and any appropriations issues related to transitioning an agency to and from SDSI status.[5] This study fulfills these requirements but does not take on the more fundamental policy question of whether the SDSI concept is an appropriate suspension of legislative authority and oversight.

Results

Not having a consistent approach for granting, overseeing, and revoking SDSI status exposes the State to unnecessary risk.

Controlling revenues and expenditures, and holding agencies accountable for performance through the appropriations process is at the heart of legislative authority and oversight. The appropriations process allows the Legislature to closely monitor agency operations and set agency priorities through the power of the purse. For several of the current SDSI agencies, the appropriations process was the primary opportunity for the Legislature to oversee their operations and performance. In addition, the reporting requirements associated with the appropriations process, such as Legislative Appropriations Requests and performance measures, provided consistent and valuable information for other oversight entities such as LBB, SAO, and Sunset.

Removing agencies from the appropriations process and allowing them to operate without close fiscal oversight has potential risks, including the opportunity for abuse of this flexibility and possibility that without the appropriations process as a buffer, regulatory programs may be overly influenced by the regulated community that underwrites the cost of these agencies. Even though agencies with SDSI status tend to be smaller occupational licensing agencies, they can experience significant problems when operating outside of appropriations due to inadequate expertise and budgetary controls. For example, an SAO report found significant problems with the Texas Real Estate Commission's (TREC) ability to meet statutory requirements for developing accurate financial reports and correctly accounting for licensing revenues.[6]

The Legislature has granted SDSI status to eight state agencies.

In 2012, Sunset found that the disparate treatment of agencies caused by the State's incremental approach to granting SDSI status increases the risk that the State may lose control of one of the SDSI agencies.[7] Based on Sunset staff's most recent assessment of the State's approach to SDSI, these concerns continue to exist, as do significant concerns with the SDSI concept overall. This report recommends implementing a more comprehensive and consistent method of evaluating, approving, and overseeing the SDSI status of state agencies to help mitigate these ongoing concerns as well as the potential risks associated with the loss of legislative oversight through SDSI.

- **Inconsistent approach to granting SDSI status.** As previously noted, only three of the eight SDSI agencies operate under the actual SDSI Act. The remaining five agencies gained SDSI status through independent legislation and ultimately their own separate statutes. While each agency must abide by similar SDSI statutory provisions, as time goes on, the potential for any of these statutes to be separately modified increases, allowing for numerous variations on the statutory SDSI requirements. For example, the previous Sunset review of the SDSI Act resulted in a significant expansion of reporting requirements to improve legislative oversight; however, the five agencies not under the SDSI Act are not subject to these requirements or any of the other statutory improvements added to the SDSI Act. These different requirements and the potential for even greater statutory disparities in the future, make oversight difficult and agency comparisons impossible.

The State lacks a means to ensure each agency considered for SDSI status is capable of operating effectively outside the appropriations process.

Having a disjointed approach to granting SDSI status not only leads to agencies operating under different statutory requirements but also fails to ensure that each agency being considered for SDSI status is uniformly and adequately screened for the ability to operate with fiscal restraint and effectively carry out its mission outside of the appropriations process. Currently, no process exists to thoroughly evaluate each agency's financial and operational performance to ensure it can function effectively under the considerable funding and oversight flexibility granted by SDSI status. Given concerns about the ability of current SDSI agencies to operate effectively, expansion of SDSI status to other professional licensing and regulatory agencies should be approached consistently and deliberately, with sufficient information and data to support the decision to grant SDSI status or not.

- **Lack of continuing oversight.** Currently, LBB, SAO, Sunset, and the Comptroller of Public Accounts have limited oversight and assistance responsibilities related to SDSI agencies. Oversight efforts are limited to reviewing reports, conducting audits, and providing technical assistance. However, no single entity is tasked with regular monitoring of SDSI agencies. The SDSI Act does require SAO to contract with SDSI agencies for financial and performance audits. However, the SDSI Act does not specify the frequency of these audits to ensure SAO regularly reviews these agencies to help identify any problems early, before they become potential liabilities for the State.[8] While the Sunset Commission has authority to review SDSI status as part of each SDSI agency's regular Sunset review, the agencies typically only undergo Sunset review every 12 years. Sunset is not in a position to evaluate an agency's ongoing SDSI reports and performance data to detect problems sooner than every 12 years. Further, should an SDSI agency experience a significant problem of any sort, no single oversight entity is responsible for alerting the Legislature.

No single entity is tasked with regular monitoring of SDSI agencies.

While the Legislature recently added more detailed reporting requirements to the SDSI Act, this review identified the need to further strengthen the requirements. For example, Sunset found that a lack of consistent, detailed budget information makes it difficult to understand SDSI agency budgets and accurately track the flow of revenues and expenditures. As noted in the SAO report, TREC did not provide a full accounting of its budget, omitting $33.1 million in nonoperational pass-through revenues, expenditures, and transfers.[9] While the SDSI Act requires SDSI agency budgets be developed using Generally Accepted Accounting Principles, this does not ensure budget documents are completed in standard formats and with sufficient detail to provide a clear picture of all revenues and expenditures. In addition, the SDSI Act currently requires the agencies to report their annual financial and performance data on November 1, but this date does not coincide with the required November 20 submission date for their annual financial report, creating additional work for the agencies and potentially undermining the accuracy of the reported data.[10] If the Legislature chooses to grant SDSI status to larger, more complex agencies, reporting budgetary and performance information with greater transparency and detail will become increasingly important.

- **No process for transitioning agencies back to the appropriations process.** While the future is uncertain, the potential exists for an SDSI agency to move back to the appropriations process. However, the SDSI Act provides no guidance on how to effectively transition an SDSI agency back to the appropriations process, and a defined transition process does not exist. The SDSI Act does not address key steps such as developing transitional budgets, performance measures, and standard oversight mechanisms. Without a well-defined transition process, if the Legislature were to revoke an agency's SDSI status, LBB would likely need to treat the agency as if it were newly created. While an SDSI agency would have a budget and some performance measures in place, LBB would likely have to create a baseline budget and new performance measures since SDSI agencies do not typically budget in the same way as appropriated agencies and are able to set their own performance measures.

Recommendations

Change in Statute

1.1 Require the Legislative Budget Board to develop and administer a process for obtaining SDSI status and overseeing SDSI agencies.

Under this recommendation, LBB would develop and manage the SDSI process for the state. The process would include developing and administering an application process that any state agency requesting SDSI status would be required to complete. Agencies that currently have SDSI status would be exempt from the application process. The process would also provide for ongoing oversight of all SDSI agencies and a consistent way to revoke SDSI status and transition agencies back to the appropriations process if needed.

SDSI Application Process

To be considered for SDSI status, a state agency would be required to:

- undergo an SAO financial and performance audit within four years of submitting the application for SDSI status;
- hold a public hearing on the need for SDSI status and decide by an official vote of the agency's governing board whether or not to apply to LBB for SDSI status; and
- submit an SDSI application to LBB, concurrent with the agency's Legislative Appropriations Request, four years in advance of when the SDSI status would become effective.

As part of the SDSI application, agencies must include a statement of need for SDSI status, including anticipated benefits and potential drawbacks; data showing a history of and continuing ability to operate effectively and protect the public's interest; documentation of adequate budgetary processes and controls; any fiscal impacts to other state accounts or other state agencies; and documentation showing that SDSI status would be revenue neutral to the State.

LBB would be authorized to determine the format of the application and could require any additional information to best evaluate an agency's ability to effectively operate under the SDSI Act, such as the financial expertise of board members and staff; certification that no conflicts of interest between board members, staff, and regulated professions or entities exist; any public and stakeholder comments related to the agency's SDSI status; and any affected contracts, facilities, properties, and leases. Based on its review and analysis of the application and other materials, LBB staff would make a recommendation to the appropriative committees on whether or not an agency should be granted SDSI status.

Ongoing Oversight

An agency with SDSI status must continue to demonstrate its effectiveness in carrying out its mission, including protecting the public's interest; financial soundness, including its ability to raise sufficient revenues and maintain operating reserves; ability to meet all financial obligations, including retirement and health benefit costs; and ongoing compliance with all application requirements and statutory reporting requirements, as well as a satisfactory audit history, including the agency's ability to remedy findings.

LBB would be expected to monitor SDSI agencies on a regular basis and authorized to develop any additional reporting requirements for this purpose. LBB staff could make recommendations to address any identified problems to the appropriative committees and the Legislature, including a recommendation to revoke an agency's SDSI status. LBB would be authorized, but not required, to recover the costs associated with the SDSI application process and any ongoing oversight.

SDSI Revocation Process

LBB would be statutorily authorized to develop a process and criteria to determine when recommending revocation of an agency's SDSI status to the Legislature is warranted. If the Legislature revokes an agency's SDSI status, LBB would facilitate the transition of an SDSI agency back to the appropriations process. The transition would likely include establishing a new budget pattern and performance measures; determining the placement and use of agency funds; developing any necessary riders; and evaluating the status and disposition of agency contracts, facilities, properties, and leased space. In addition to any SDSI revocation process that LBB develops, the Legislature could also revoke an agency's SDSI status based on a recommendation from the Sunset Commission through the agency's Sunset review.

1.2 Expand reporting and monitoring requirements of agencies subject to the SDSI Act to help improve oversight.

This recommendation would require all agencies operating under the SDSI Act to provide more complete budget information, including reporting all nonoperational and pass-through revenues and expenditures in a consistent format prescribed by LBB. The SDSI agencies would also be required to undergo an SAO financial and performance audit every six years to ensure more consistent and ongoing oversight, but this requirement would not prevent SAO from performing a risk-based audit any time it deems necessary. Finally, this recommendation would align the SDSI agency annual performance and financial data reporting date with the submission date of the annual financial report by changing the reporting date from November 1 to November 20. Requiring SDSI agencies to provide more detailed and transparent financial data would give oversight agencies, such as LBB, SAO, and Sunset, a more accurate picture of the SDSI agencies' financial status. Also, presenting this information in a consistent format would allow for easier comparison of SDSI agency performance.

1.3 Place all current SDSI agencies under the SDSI Act.

While not specifically required as part of this study, Sunset staff identified a significant risk in having essentially three different sets of SDSI statutes in place governing eight state agencies. To provide for more consistent administration and effective oversight of all SDSI agencies, the following finance and real estate-related SDSI agencies would be made subject to the SDSI Act and the separate SDSI provisions would be removed from their individual statutes.

- Texas Department of Banking
- Texas Department of Savings and Mortgage Lending
- Office of Consumer Credit Commissioner
- Credit Union Department
- Texas Real Estate Commission/Texas Appraiser Licensing and Certification Board

Placing these agencies under the SDSI Act would ensure a single set of reporting requirements and controls applies to all SDSI agencies. Further, these agencies would be held to the same standard of remitting all administrative penalties to general revenue, as the agencies currently under the SDSI Act do. In addition, TREC would no longer pay annual retainers to SAO, OAG, and the State Office of Administrative Hearings. Instead, TREC would reimburse these agencies for any services rendered. Also, each agency's SDSI status would be evaluated as part of the agency's regular Sunset review.

Change in Appropriations

1.4 The Senate Finance and House Appropriations committees should consider establishing a moratorium on expanding SDSI status during the 84th Legislative Session.

This recommendation expresses the intent of the Sunset Commission that the Senate Finance and House Appropriations committees temporarily suspend granting SDSI status to any other state agencies until the Legislature is able to adopt a more comprehensive and consistent approach for managing the SDSI process.

Fiscal Implication

These recommendations would have an overall positive fiscal impact to the State based on the administrative penalty revenues that would be deposited to the General Revenue Fund. However, the amount of these revenues could not be estimated since administrative penalties collected by agencies vary year to year. Regarding Recommendation 1.1, LBB would be authorized, but not required, to recover any costs associated with overseeing SDSI agencies by assessing a cost reimbursement fee to be paid by the SDSI agencies. Under Recommendation 1.2, TREC would no longer pay annual retainers to SAO, OAG, and the State Office of Administrative Hearings; however, this would not have a significant fiscal impact because under the SDSI Act, TREC would reimburse these entities for the actual costs of any services rendered.

1 Self-Directed Budget for Certain Divisions, Subchapter F, Texas Insurance Code.

2 H.B. 2774, 81st Texas Legislature, Regular Session, 2009 and S.B. 1000, 82nd Texas Legislature, Regular Session, 2011.

3 Sunset Advisory Commission (Sunset), *Sunset Final Report with Legislative Action on Self-Directed Semi-Independent Agency Project Act* (Austin: Texas, Sunset Advisory Commission, October 2012).

4 H.B. 1685, 83rd Texas Legislature, Regular Session, 2013.

5 H.B. 1675, 83rd Texas Legislature, Regular Session, 2013.

6 State Auditor's Office (SAO), *The Real Estate Commission: A Self-directed Semi-independent Agency, Report No.14-037* (Austin: State Auditor's Office, September 2014), pp. 1-2.

7 Sunset, *Final Report with Legislative Action Self-Directed Semi-Independent Agency Project Act*, p. 43.

8 Section 472.103, Texas Government Code.

9 SAO, *The Real Estate Commission: A Self-directed Semi-independent Agency*, p. 18.

10 Section 2101.011(b), Texas Government Code.

Responses to Study Results

Overall Affected Agency Responses to Staff Study

Texas State Board of Public Accountancy. The October 2014 study takes a broad brush approach that encompasses all SDSI agencies. We would ask that the report make it clearer that the SDSI agencies that underwent Sunset review in 2013 received a finding that they are operating responsibly. We also ask that you include greater emphasis on the positive aspects of SDSI that were contained in the final results of the Sunset report of July 2013 and highlight the safeguards that were put in place with the enactment of House Bill 1685 in response to the 2012–2013 report recommendations. (William Treacy, Executive Director – Texas State Board of Public Accountancy)

Texas Board of Professional Engineers. As one of the original SDSI agencies, the Texas Board of Professional Engineers (TBPE) has found the SDSI program to be very effective and we have worked hard to be a model of efficiency, transparency, and accountability. This is evident through our various awards, audits, Sunset reviews, and multiple and detailed reports to the governor's office, Legislature, and various oversight agencies. During the 83rd Legislative Session, the SDSI program underwent a full Sunset review and the involved agencies were found to be operating appropriately and the SDSI Act was working as intended. (Lance Kinney, P.E., Executive Director – Texas Board of Professional Engineers)

Texas Board of Architectural Examiners. Regarding the recommendations made in the study, we generally do not object to those affecting this agency. We feel that increased oversight and reporting requirements, crafted to be reasonable and feasible, will do nothing other than bolster the State's confidence that its SDSI agencies are operating according to the wishes of the Legislature. Our only potential concerns are with the details of how legislation might be written and implemented – which is to say, our concerns lie outside the scope of your study. The Texas Board of Architectural Examiners would hope that the scope of the proposed increased oversight is reasonable and mindful of the legislative intent of SDSI, and that the cost of the increased oversight is not so high that it would seriously impact agency finances. We hope that proposed legislation would not adversely affect the board's ability to balance our annual budget. (Glenn Garry, Interim Executive Director – Texas Board of Architectural Examiners)

Texas Department of Banking. The study suggests that there is a lack of oversight of the SDSI agencies, specifically noting the limited oversight of the Legislative Budget Board (LBB), State Auditor's Office (SAO), Sunset, and Comptroller of Public Accounts. With the exception of appropriation-related and performance measure reporting, we receive the same oversight as we did pre-SDSI from these agencies. While the Department of Banking (DOB) agrees that the legislative appropriation process is a powerful tool, it is not the only tool to evaluate performance and compliance. For example, in addition to the required state reporting, in our letter to your agency dated June 30, 2014, we provided samples of the periodic reports we provide to our oversight board, the Finance Commission. Also, in response to the inference that SDSI status may cause regulatory programs to be overly influenced by the regulated community, we point out that our 11-member Finance Commission requires a majority of six public members. The study further generalizes that small agencies have inadequate accounting expertise and budgetary controls which is not true with respect to our agency.

Being SDSI has enhanced and heightened our reporting, interaction, and transparency with our oversight board. This interaction provides a thorough and ongoing evaluation of the agency's financial and operational performance and allows DOB to function in a more business-like manner. In addition, we continue to have close communication with our oversight legislative committees, Senate Business and Commerce and House Investments and Financial Services. (Charles G. Cooper, Banking Commissioner – Texas Department of Banking)

Texas Department of Savings and Mortgage Lending. The Department of Savings and Mortgage Lending acknowledges that transparency, accountability, and accurate reporting are essential to being SDSI, but is concerned with the suggestion of a "one-size-fits-all" approach. As an SDSI agency we strive to be transparent, accountable, and good financial stewards. The current SDSI statute, as set out in the Finance Code, allows the department to successfully and efficiently fulfill our mission and regulatory responsibilities. The SDSI status allows the department to be run in a business-like manner, which further allows us to respond quickly to changes in the financial regulatory environments under our authority. As needed we can respond to these changes by either expanding or contracting our resources. (Caroline C. Jones, Commissioner – Texas Department of Savings and Mortgage Lending)

Office of Consumer Credit Commissioner. The Office of Consumer Credit Commissioner (OCCC) would respectfully note some of the findings in this report that the agency believes will challenge its ability to most effectively fulfill its mission. The report suggests that there is an undefined and inconsistent approach to managing SDSI agencies. The OCCC, along with DOB and the Texas Department of Savings and Mortgage Lending, believe that the Legislature has set sufficient safeguards in place to prevent exposing the State to unnecessary risk. The OCCC does not believe that there is a one-size-fits-all approach that will result in effectively administering and overseeing SDSI agencies. What works for one may not work for another. (Leslie L. Pettijohn, Commissioner – Office of Consumer Credit Commissioner)

Credit Union Department. In general, the study recommends the implementation of a more comprehensive and consistent method of evaluating, approving, and overseeing the SDSI status of agencies. The Credit Union Department fully supports the concept that SDSI agencies should be open, accountable, transparent, and fiscally-responsible. As a regulatory agency, we also recognize the benefits of early and realistic identification of problems or weaknesses before they develop into more serious issues or adversely affect the agency's ability to effectively carry out its mission. (Harold E. Feeney, Commissioner – Credit Union Department)

Texas Real Estate Commission. We are in full agreement that it would best serve the people of Texas and their representatives in the Legislature if some additional clarity were provided in the application and interpretation of SDSI agency requirements, especially in the area of reporting directives. While each agency is fully responsible for all funds that come into its possession and for the reports filed, a lack of consistent guidance from oversight agencies on the unique requirements of SDSI agencies has led to some inconsistent results. This lack of consistency has the potential to lead to some misleading conclusions if not clarified. (Douglas E. Oldmixon, Administrator – Texas Real Estate Commission and Commissioner – Texas Appraiser Licensing & Certification Board)

Recommendation 1.1

Require the Legislative Budget Board to develop and administer a process for obtaining SDSI status and overseeing SDSI agencies.

Affected Agency Responses to 1.1

Texas Board of Professional Engineers. TBPE has extensive experience in SDSI operations, monitoring, performance measure collection and analysis, budgeting, and reporting. There are currently numerous measures already required by statute for SDSI agencies to report, both legacy measures from the original SDSI program as well as measures newly added through the 2013 Sunset legislation. Therefore, TBPE would like to offer our assistance to LBB and the Sunset Commission with these charges and to help develop the most relevant and effective reporting and monitoring processes. We believe our experience with SDSI would be very valuable to assist in meeting the goals of transparency and accountability while keeping a focus on the intent of the SDSI program toward innovative and efficient state government. (Lance Kinney, P.E., Executive Director – Texas Board of Professional Engineers)

Texas Department of Banking. Transparency, accountability and accurate reporting are essential but should be relevant and tailored to the operations of each agency. The costs of ongoing LBB oversight that may be recovered from SDSI agencies could be a significant expense that would be passed on to our licensees. We believe the Legislature has set sufficient safeguards that prevent exposing the State to unnecessary risk.

Texas Department of Banking Modification

1. Reduce the gestation period of four years for the application process to no more than one year.

(Charles G. Cooper, Banking Commissioner – Texas Department of Banking)

For

James H. Willmann, J.D., General Counsel and Director of Governmental Affairs – Texas Nurses Association, Austin

Against

None recevied.

Modification

2. Allow for an expedited or tiered review and approval process for obtaining SDSI status in appropriate circumstances based on factors such as agency size, perceived fiscal risk, audit history, achievement of performance targets, reporting compliance, or industry-specific issues that may warrant more immediate attention. (John Morgan, Securities Commissioner – Texas State Securities Board, Austin)

Recommendation 1.2

Expand reporting and monitoring requirements of agencies subject to the SDSI Act to help improve oversight.

Affected Agency Responses to 1.2

Texas Department of Banking. A benefit of our specific SDSI statute is the elimination of standardized reports that have no relevance or bearing on the agency. We are not opposed to reporting, but reports for the sake of reporting are not the best use of agency resources. The frequency of SAO audits should be driven by SAO's annual risk assessment for the state. Periodically, other state agencies including the comptroller, Texas Workforce Commission, Department of Information Resources and the State Office of Risk Management, as well as external CPA firms performing the internal audit function, perform audits on DOB and other SDSI agencies that can be reviewed by the SAO in their risk assessment process. Our Annual Financial Report is due September 30th each year. Moving the date of SDSI reporting to November 20th serves no purpose for us.

Texas Department of Banking Modification

3. Require the scheduling and frequency of SAO audits be directed by SAO after it performs the annual risk assessment for the state.

(Charles G. Cooper, Banking Commissioner – Texas Department of Banking)

Texas Real Estate Commission. This agency collects much more revenue annually for "pass-through" to other agencies (approximately $16 million) than it retains to operate its core regulatory functions (approximately $10 million). The SDSI report for each year has been filed per the statutory requirements without adverse comment from any of the several statutory recipients. This report contained only the operating revenues and expenses and not any pass-throughs. The yearly annual financial report has contained the more comprehensive financial report, including all pass-throughs. It would seem to provide no obvious value for both of these reports to contain the same information. (Douglas E. Oldmixon, Administrator – Texas Real Estate Commission and Commissioner – Texas Appraiser Licensing & Certification Board)

For 1.2

James H. Willmann, J.D., General Counsel and Director of Governmental Affairs – Texas Nurses Association, Austin

Against 1.2

None received.

Recommendation 1.3

Place all current SDSI agencies under the SDSI Act.

Affected Agency Responses to 1.3

Texas Department of Banking. The SDSI Act includes several valuable provisions which DOB currently follows and believes should apply to all SDSI agencies. However, the SDSI Act is written for professional licensing agencies not financial regulatory agencies. A one-size-fits-all regulatory SDSI scheme is not the best solution. Our enabling SDSI legislation is tailored to the specific characteristics of financial regulatory agencies. We recognize the value of baseline standards but would prefer to see alignment by agency type. (Charles G. Cooper, Banking Commissioner – Texas Department of Banking)

Texas Department of Savings and Mortgage Lending. Prior to and since receiving the SDSI status the Department of Savings and Mortgage Lending, consistent with the other financial regulatory agencies (DOB, OCCC, and Credit Union Department), has been a self-leveling/self-funding agency. This is a significant difference between the department and the SDSI agencies under Government Code, Chapter 472. Under the self-leveling/self-funding methodology, an agency does not or very minimally contributes to general revenue, has no impact on the state budget, and sets fees and assessments to cover all its direct and indirect operating costs.

The department uses administrative penalties as a deterrent for non-compliance with and violations of statutory requirements. Administrative penalties collected are credited against the revenue budget of the applicable industry and ultimately result in a discount of fees charged to the industry. Using this strategy allows companies that maintain compliance to potentially pay less and companies with poor compliance to pay more. Remitting these penalties to general revenue would restrict the department's ability to incentivize entities to be compliant with statutory requirements and could potentially increase the fees assessed to the industries as a whole. Additionally, remitting administrative penalties to general revenue would be contrary to the existing self-leveling/self-funding statutory requirement. (Caroline C. Jones, Commissioner – Texas Department of Savings and Mortgage Lending)

Office of Consumer Credit Commissioner. The OCCC acknowledges the recommendation for standards for SDSI agencies and generally does not object to standards; however, the agency would prefer to see an alignment specifically for financial regulatory agencies within the governing statute for financial regulatory agencies, Chapter 16 of the Texas Finance Code. Placing all current SDSI agencies under the SDSI Act (Act) is a decision that must be thoroughly vetted. The OCCC does not shy away from change and governance, if it is in the right direction. The Act as written is for professional licensing agencies. It does not align well with fundamental regulatory concepts for financial service providers.

The report also recommends that SDSI agencies remit a specified fixed sum to the General Revenue Fund. The OCCC fully expects to pay for the costs of its operations and as a self-funded agency does not intend to place any additional burden on the General Revenue Fund. The OCCC pays for services that it uses from the Office of the Attorney General, SAO, and State Office of Risk Management, as well as its fair share assessment of the statewide allocation cost. Although we recognize the importance of providing funding for the State, this is counter to the self-leveling/self-funding model and the fundamental concept that assessments collected from regulated industries should pay for their costs of regulation, direct and indirect. Under the agency's enabling legislation, fees collected for regulators are to be used for that purpose and should not be diverted for an unrelated purpose, Texas Finance Code Section 14.107. The agency uses a mechanism to ensure the revenues collected correlate with fees assessed and the cost of operations.

The OCCC and the other regulatory agencies follow a self-leveling methodology. Under self-leveling methodology, the agency adjusts its assessments to the regulated industries to approximate the expenditures associated with the respective industries. Usually the methodology entails the use of assessments to manage and match the revenue level to the anticipated expenditure level. It is important to ensure that changes do not disrupt revenue and expenditure streams the agency has come to depend on to rapidly adapt and respond to dynamic changes and industry growth in the regulatory environment. For an SDSI agency that is self-leveling, predictability and flexibility are important in the exercise of good financial stewardship.

Lastly, the OCCC has been able to successfully use administrative penalties as a deterrent to noncompliance with regulatory statutes, while balancing the collection of administrative penalties as a credit for good compliance behavior with other regulated entities. Administrative penalties collected are credited against the revenue budget of the applicable industry and result in a discount to the assessment rate of the applicable industry. Using this strategy supports a philosophy supported by the regulated industries in which companies with high rates of compliance pay less and companies with low rates of compliance pay more. Diverting these funds into the General Revenue Fund would hinder the agency's ability to incentivize the "good players." Further, it would result in a greater cost to the respective regulated industry. (Leslie L. Pettijohn, Commissioner – Office of Consumer Credit Commissioner)

Credit Union Department. In commenting on the study, the Credit Union Department wishes to emphasize that it is not an occupational licensing agency. While the department does have authority to charter credit unions, its primary function is to ensure safety and soundness in the operations of credit unions. Therefore, most of its activities are designed to evaluate the condition of a credit union and ensure the safety and soundness of the institution, as well as its compliance with applicable laws and regulations. As a result, generic across-the-board reporting requirements usually fail to properly differentiate between the safety and soundness functions and general licensing functions. As a result, these generic reporting requirements generally provide less than a complete picture of this agency's operational performance. Therefore, if all SDSI agencies are placed under the SDSI Act, we would encourage some amendments to the Act's reporting requirements to provide more meaningful reporting for this and other financial regulatory agencies.

Since its inception, the department has been revenue neutral to the State's General Revenue Fund. The department has always been fully self-funding, meaning that it generates all its revenues through charges on its supervised credit unions. The department's revenues have, historically, also been fully self-leveling, meaning that, by statute, the agency can charge its supervised credit unions only what it expends to supervise and enforce the law. It is important to the supervised credit unions that they pay no additional amounts. Accordingly, it would be important, if all SDSI agencies are placed under the SDSI Act, that the Act specifically recognizes the self-leveling aspect of the department's statutes and budget operations.

Credit Union Department Modification

4. If all SDSI agencies are placed under the SDSI Act, incorporate provisions, similar to those contained in Texas Finance Code Section 16.007, which gives the Credit Union Department charge and control of the property known as the Credit Union Building and the use of staff, equipment, and facilities of the Department, into that Act.

(Harold E. Feeney, Commissioner – Credit Union Department)

Texas Real Estate Commission. We agree that the standardization of SDSI reporting requirements would have a positive result for the agencies themselves, the oversight agencies, and the Legislature but some flexibility should remain for other requirements to account for the unique responsibilities of each agency.

Texas Real Estate Commission Modification

5. Exempt the Texas Real Estate Commission and Texas Appraiser Licensing & Certification Board from the recommendation to remit all administrative penalties to the General Revenue Fund.

(Douglas E. Oldmixon, Administrator – Texas Real Estate Commission and Commissioner – Texas Appraiser Licensing & Certification Board)

Staff Comment: If all SDSI agencies are placed under the SDSI Act, the intent of the staff recommendation is that:

- SDSI agency annual remittances would be retained only for SDSI agencies that currently have them and would not apply to SDSI agencies that do not currently have them;
- SDSI agencies that currently own their own buildings would maintain ownership and control over this property; and
- only applicable reporting requirements would apply to the SDSI agencies. Recognizing that the finance-related agencies do not license individuals, they would instead report on the issuance of charters or other certifications, including number of charters or certificates, collected fees, average time to issue a charter or certificate, and related enforcement activities.

For 1.3

James H. Willmann, J.D., General Counsel and Director of Governmental Affairs – Texas Nurses Association, Austin

Against 1.3

Melodie Durst, Executive Director – Credit Union Coalition of Texas, Austin

John C. Fleming, General Counsel – Texas Mortgage Bankers Association, Austin

J. Eric T. Sandberg, Jr., President and CEO – Texas Bankers Association, Austin

Stephen Y. Scurlock, Executive Vice President – Independent Bankers Association of Texas, Austin

Sunset Member Modifications

6. Instead of placing the Texas Credit Union Department under the SDSI Act in the Government Code, retain the department's SDSI state agency status in the Finance Code; exempt the department from the recommendation to transfer administrative penalties to the General Revenue Fund from the Credit Union Department Fund; and require the department to comply with the additional reporting requirements found in the SDSI Act (Government Code, Section 472.104), by adding those reporting requirements to Chapter 16 of the Finance Code. (Representative Richard Peña Raymond, Member – Sunset Advisory Commission)

7. Instead of placing the finance-related SDSI agencies (Texas Department of Banking, Texas Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Credit Union Department) under the SDSI Act in the Government Code, retain their SDSI state agency status in the Finance Code; exempt them from the recommendation to transfer administrative penalties to the General Revenue Fund; and add the additional reporting requirements found in the SDSI Act (Government Code, Section 472.104) to Chapter 16 of the Finance Code. (Representative Richard Peña Raymond, Member – Sunset Advisory Commission)

Modifications

8. Instead of placing the Texas Credit Union Department under the SDSI Act in the Government Code, retain the department's SDSI state agency status in the Finance Code. (Jeff Huffman, President – Texas Credit Union Association)

9. Exempt the Texas Credit Union Department from the recommendation to transfer administrative penalties to the General Revenue Fund from the Credit Union Department Fund. (Jeff Huffman, President – Texas Credit Union Association)

Recommendation 1.4

The Senate Finance and House Appropriations committees should consider establishing a moratorium on expanding SDSI status during the 84th Legislative Session.

Affected Agency Responses to 1.4

None received.

For 1.4

None received.

Against 1.4

John Morgan, Securities Commissioner – Texas State Securities Board, Austin

James H. Willmann, J.D., General Counsel and Director of Governmental Affairs – Texas Nurses Association, Austin

Commission Decision on Study Results

The Sunset Commission adopted all of the staff recommendations in the study. In addition, the Commission modified and adopted Modification 7 to Recommendation 1.3 as follows.

- Exempts the finance-related SDSI agencies (Texas Department of Banking, Texas Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Credit Union Department) from the recommendation to transfer administrative penalties to the General Revenue Fund.
- Adds the property provision found in Finance Code 16.007 to the SDSI Act, which would apply only to the finance-related agencies. In addition, clarifies that the property provision currently found in the SDSI Act allows SDSI agencies to own and maintain property. Also, add an additional reporting requirement to Government Code 472.104(b) requiring the SDSI agencies to report on the purchase or sale of any real property and ongoing lease and maintenance costs associated with real property.
- Makes the reporting requirements found in Government Code 472.104 apply appropriately to the finance-related SDSI agencies.

New Issue

New Issue

The following issue was raised in addition to the issue in the staff report. This issue is numbered sequentially to follow the staff's recommendations.

2. Continue to allow the Texas Real Estate Commission and Texas Appraiser Licensing & Certification Board to set their own performance measures. (Douglas E. Oldmixon, Administrator – Texas Real Estate Commission and Commissioner – Texas Appraiser Licensing & Certification Board)

Commission Decision on New Issue

The Sunset Commission did not adopt the new issue.

Sunset Staff Study of the

Self-Directed Semi-Independent Status of State Agencies

Report Prepared By

Steven Ogle, *Project Manager*

Christian Ninaud

Janet Wood

Jennifer Jones, *Project Supervisor*

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Director

Sunset Advisory Commission

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G

EXECUTIVE SESSION

(closed to public)

G. The Credit Union Commission may go into Executive Session on any agenda item if appropriate and authorized by the Open Meeting Act, Texas Government Code, Chapter 551.

H

OTHER BUSINESS

H. (a) If Necessary, Vote on Matters discussed in Executive Session.

(b) Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for June 19, 2015)

Adjournment

CREDIT UNION DEPARTMENT

INDUSTRY STATUS

AND

DEPARTMENTAL OPERATION

AFFIRMATIVE ACTION/EEO QUARTERLY REPORT
1st Quarter - FISCAL YEAR 2015

During this fiscal year the Department is authorized to have 27.5 Employees.

		White		Black		Hispanic		Asian		
		Male	Female	Male	Female	Male	Female	Male	Female	Total
No. of Employees on	4th quarter	12	3	1	4	2	1	1	0	24
Resignations (retirees)		1	0	0	0	0	0	0	0	1
New Hires		1	1	1	0	0	0	0	0	3
No. of Employees on	1st quarter	12	4	2	4	2	1	1	0	26
Resignations (retirees)		1	0	0	0	0	0	0	0	1
New Hires --		0	0	0	0	0	0	0	0	0
Grand Total of Employees		11	4	2	4	2	1	1	0	25
Promotions - 1st Quarter		2								2

Percent Male	64.00%
Percent Female	36.00%

Salary Breakdown

		4th quarter	1st quarter	Average Tenure	
Average of Salaries		$ 72,202	$ 73,971	133.6	months
Average Salaries - White		$ 77,387	$ 80,682	136.1	months
Male	11	$ 83,458	$ 88,214	154.4	months
Female	4	$ 59,174	$ 59,967	85.7	months
Average Salaries - Black		$ 62,306	$ 62,306	163.7	months
Male	2	$ 52,878	$ 52,878	6.6	months
Female	4	$ 67,020	$ 67,020	163.7	months
Average Salaries - Hispanic		$ 59,592	$ 59,592	151.4	months
Male	2	$ 59,526	$ 59,526	34.8	months
Female	1	$ 59,724	$ 59,724	384.7	months
Average Salaries - Asian		$ 86,448	$ 86,448	175.8	months
Male	1	$ 86,448	$ 86,448	175.8	months
Female	0	$ -	$ -	0.0	months
	25				

Exmr. Experience - 1st quarter

Less than 1 year	4	Average Salary	$ 47,739
1 - 2 years	2	Average Salary	$ 51,096
2 - 5 years	3	Average Salary	$ 63,108
5 - 10 years	1	Average Salary	$ 94,884
Over 10 years	7	Average Salary	$ 95,684
Total	17	Average Salary	$ 73,361

Credit Union Department

Executive Summary

As of 11/30/14 *Information from call report cycle

ACTIVITY	YTD 2013	YTD 2014	2015 FISCAL YEAR 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MOVEMENT PROFILE							
Number of CUs	190	188	188				
Total Assets (Millions)	*29,549	*31,715	*31,822				
APPLICATIONS (Received)							
Charters	0	0	0				0
Foreign Branches	0	0	0				0
Conversions	1	0	1				1
Mergers	13	3	3				3
Bylaws	53	64	11				11
Articles of Incorporation	2	5	1				1
Total	69	72	16	0	0	0	16
EXAMINATION ACTIVITIES							
Regular	90	68	18				18
Joint	70	95	19				19
Remedial	44	44	10				10
Total	214	207	47	0	0	0	47
ENFORCEMENT ACTIONS (In Force)							
Determination Letters	5	5	3				
LUAs	2	2	2				
Cease & Desist Orders	1	0	2				
Dividend Restrictions	0	0	0				
Conservatorships	1	1	1				
Liquidations	1	1	2				
Total	10	9	10	0	0	0	
PERSONNEL STAFFING							
Field Examiners	15	17	15				
Total Personnel	25	26	25				
FINANCIAL OPERATIONS (In Thousands)							
Budgeted Expenditures	2,969	3,024	799	0	0	0	799
Actual Expenditures	2,769	3,009	724	0	0	0	724
Gifts and Bequests	n/a	n/a	n/a	0	0	0	n/a
Actual Revenue	2,746	2,851	1,893	0	0	0	1,893

Credit Union Department

Application Activities - Detail

ACTIVITY	4th Qtr 2013	4th Qtr 2014	2015 FISCAL YEAR 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
CHARTERS						
Pending at Beginning of Period	0	0	0	0	0	0
Add: New Applications Filed	0	0	0	0	0	0
Less: Approved	0	0	0	0	0	0
Denied/Withdrawn	0	0	0	0	0	0
Pending at End of Period	0	0	0	0	0	0
FOREIGN BRANCH OFFICES						
Pending at Beginning of Period	0	0	0	0	0	0
Add: New Applications Filed	0	0	0	0	0	0
Less: Approved	0	0	0	0	0	0
Denied/Withdrawn	0	0	0	0	0	0
Pending at End of Period	0	0	0	0	0	0
CONVERSIONS						
Pending at Beginning of Period	0	0	0	0	0	0
Add: Applications Filed	1	0	1	0	0	0
Less: Approved	0	0	0	0	0	0
Denied/Withdrawn	0	0	0	0	0	0
Pending at End of Period	1	0	1	0	0	0
MERGERS						
Pending at Beginning of Period	4	2	0	0	0	0
Add: Applications Filed	5	1	3	0	0	0
Less: Approved	4	2	0	0	0	0
Denied/Withdrawn	0	1	0	0	0	0
Pending at End of Period	5	0	3	0	0	0
BYLAWS						
Pending at Beginning of Period	3	1	5	0	0	0
Add: Applications Filed	17	15	11	0	0	0
Less: Approved	13	11	12	0	0	0
Denied/Withdrawn	0	0	0	0	0	0
Pending at End of Period	7	5	4	0	0	0
ARTICLES OF INCORPORATION						
Pending at Beginning of Period	1	0	0	0	0	0
Add: Applications Filed	0	1	1	0	0	0
Less: Approved	1	1	0	0	0	0
Denied/Withdrawn	0	0	0	0	0	0
Pending at End of Period	0	0	1	0	0	0

Credit Union Department
Movement Profile - Condition Summary

CAMEL RATING	4th Qtr 2013	4th Qtr 2014	2015 FISCAL YEAR *1st Qtr	*2nd Qtr	*3rd Qtr	*4th Qtr
1	27	26	27	0	0	0
2	128	133	129	0	0	0
3	30	28	29	0	0	0
4	5	1	2	0	0	0
5	0	0	0	0	0	0
Total	190	188	187	0	0	0

*Information from Master List

Texas Credit Union Department
Enforcement Actions - Detail

TYPE OF ACTION	In Force 8/31/2013	Issued	Activity Terminated	In Force 8/31/2014	Issued	Activity Terminated	In Force 11/30/2014
Determination Letters	5	1	1	5	1	3	3
LUAs	2	1	1	2	0	0	2
Cease & Desist Orders	1	0	1	0	2	0	2
Dividend Restrictions	0	0	0	0	0	0	0
Conservatorships	1	0	0	1	0	0	1
Liquidations	1	0	0	1	1	0	2
Total	10	2	3	9	4	3	10

Texas Credit Union Department
Examination Activities
Analysis of Current Year

TYPE OF EXAM	Budgeted Number	Actual Number	% Budget	% of Total	% Mailed Within 20 Days
Regular	22	18	82	10	39%
Joint	21	19	90	10	40%
Remedial	10	10	100	5	21%
Total	53	47	89	22	100%

Credit Union Department
Movement Profile - Consumer Complaints

CONSUMER COMPLAINTS	YTD 2013	YTD 2014	2015 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
Received	223	224	54	0	0	0	54
Closed	223	230	50	0	0	0	50
Avg. Days to Process	15	14	12	0	0	0	12
% Resolved in 30 Days	100%	98%	98%	100%	100%	100%	100%

Texas Credit Union Department
Consumer Complaint - Detail

TYPES OF COMPLAINTS	YTD 2013	YTD 2014	2015 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
LOAN ISSUES							
Collections/Loans	28	12	3	0	0	0	3
Procedure Irregularity	11	34	10	0	0	0	10
Denial	5	0	0	0	0	0	0
Cross Collateralization	4	0	0	0	0	0	0
Credit Report Issues	11	21	5	0	0	0	5
Collateral Protection Insurance	10	5	2	0	0	0	2
ACCOUNT ISSUES							
NSF/Overdraft	30	0	0	0	0	0	0
Electronic Funds Transfer	6	7	0	0	0	0	0
Holds on Checks	9	1	1	0	0	0	1
Posting Order	5	7	0	0	0	0	0
Fraud/Unauthorized	9	15	7	0	0	0	7
Fees	12	29	9	0	0	0	9
Billing Disputes	0	5	0	0	0	0	0
Other	0	21	0	0	0	0	0
OTHER PRODUCTS/SERVICES							
Account/Loan Balance	37	35	6	0	0	0	6
Account Closed/Frozen	12	8	2	0	0	0	2
Customer Service	34	22	5	0	0	0	5
Deceptive Advertisment	0	3	0	0	0	0	0
Vehicle Title	0	4	0	0	0	0	0
Website Issues	0	1	0	0	0	0	0
TOTAL	223	230	50	0	0	0	50

Credit Union Department Merger/Conversion Finalized							
ACTIVITY	YTD 2013	YTD 2014	2015 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MERGERS							
Number:							
State-to-State	5	1	0	0	0	0	**0**
Federal-to-State	5	5	0	0	0	0	**0**
State-to-Federal	1	2	0	0	0	0	**0**
Total	**11**	**8**	**0**	**0**	**0**	**0**	**0**
Assets:							
State-to-State	53,478,655	20,338,698	-				-
Federal-to-State	216,192,063	99,044,519	-	-		-	-
State-to-Federal	1,103,403	5,839,695	-	-			-
Total	**270,774,121**	**125,222,912**	**-**	**-**	**-**	**-**	**-**
CONVERSIONS							
Number:							
Federal-to-State	2	1	0				**0**
State-to-Federal	0	0					
State-to-Mutual Bank	0	0					
Assets:							
Federal-to-State	507,898,295	44,814,185	-	-	-		**0**
State-to-Federal	-						
State-to-Mutual Bank							
Total	**507,898,295**	**44,814,185**	**-**	**-**	**-**	**-**	**-**

Credit Union Department

Quarter Assessment of HUB Related Activities

November 30, 2015

PROCUREMENT CATEGORY	GOAL	QTR PERFORMANCE	YTD PERFORMANCE
Heavy Construction	11.2%	*	
Building Construction	21.1%	*	
Special Trade Construction	32.9%	*	
Professional Services	23.7%	0%	
Other Services	26.0%	82%	
Commodities	21.1%	82%	

* This goal is generally not applicable to the Department

Total Expenditure During this Quarter							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	296				28,903	6,546	29,199
Commodities		1,625			10,242	2,604	11,867
Total	$296	$1,625	0	0	$39,145	$9,150	$41,066

Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized this Quarter							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	1				2	5	3
Commodities		1			4	3	5

Credit Union Department
Year to Date Assessment of HUB Related Activities
November 30, 2015

Total Expenditure YTD							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	296				28,903	6,546	29,199
Commodities		1,625			10,242	2,604	11,867
Total	**$296**	**$1,625**	0	0	**$39,145**	**$9,150**	**$41,066**

Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized YTD							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	1				2	5	3
Commodities		1			4	3	5

Credit Union Department
Web Site Statistics
Report Range: 09/30/14 thru 11/30/14

		Number
Total Visits:		
	Number of Visits	5,435
	Visitors	3,015
	Page Views	13,517
	Number of Repeat Visitors	2,770
	Average Pages per Visit	2.49
	Average Visit Duration	3:21
Most Requested Pages:		
	Home Page	5,109
	Texas Rules for Credit Unions	856
	Employment	622
	Contact Us	499
	Job Postings	422
Most Downloaded Files:		
	Credit Union Listings (07-09-14)	751
	September 2014 Newsletter	612
	October 2014 Newsletter	536
	Rules for Credit Unions	459
	August 2014 Newsletter	346

Survey Responses from October 1, 2014 thru December 31, 2014

Examinations

Reflects summary responses from ____8____ surveys received or ____29____% of the ____28______ surveys mailed

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 1. The lead-time was sufficient to gather the information requested prior to the on-site examination.	8	0	0	0	0	0
Q 2. The pre-examination requests were reasonable in scope.	6	2	0	0	0	0
Q 3. Materials requested in the pre-examination were used during the examination.	4	4	0	0	0	0
Q 4. The pre-examination request made the examination run more efficiently.	4	2	1	1	0	0
Q 5. The examiners were knowledgeable about your credit union.	2	5	1	0	0	0
Q 6. The examiners demonstrated a thorough understanding of safety and soundness issues.	3	3	1	0	1	0
Q 7. The examiners were responsive to your questions and concerns.	4	4	0	0	0	0
Q 8. The examiners communicated effectively with the credit union throughout the examination.	4	4	0	0	0	0
Q 9. The examiners treated you professionally.	7	1	0	0	0	0
Q 10. The examiners explained the CAMEL Ratings in sufficient detail.	5	2	0	1	0	0
Q 11. All major findings of the examination were discussed with you prior to the examiners leaving your credit union.	7	1	0	0	0	0
Q 12. Management was given the opportunity to react to the examination findings.	3	5	0	0	0	0
Q 13. The examination was completed within a reasonable timeframe.	6	1	0	1	0	0
Q 14. The report accurately reflected the examination findings as conveyed to you during the examination.	7	1	0	0	0	0
Q 15. The report was easy to understand.	4	4	0	0	0	0
Q 16. The report accurately portrayed your credit union's practices and condition.	3	2	1	2	0	0
Q 17. The transmittal letter and other written communications concerning the examination report was clear and concise.	5	3	0	0	0	0
Q 18. The report contained useful recommendations for improving safety and soundness practices.	3	2	0	2	1	0

Examinations (Continued)

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 19. The examination findings will assist you in enhancing your safety and soundness practices.	2	3	0	3	0	0
Q 20. The examination was conducted in a fair and objective manner.	4	1	2	1	0	0

Applications

Reflects summary responses from 4 surveys received or 31 % of the 13 surveys mailed

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 1. Department staff provided timely and accurate feedback/answers.	4	0	0	0	0	0
Q 2. Department staff communicated with me in a courteous and professional manner.	4	0	0	0	0	0
Q 3. The application process was efficient.	3	1	0	0	0	0
Q 4. The Department's requests for information were reasonable.	3	1	0	0	0	0
Q 5. The Department's website was helpful in completing my application.	2	0	2	0	0	0

Complaints

Reflects summary responses from 5 surveys received or 10 % of the 52 surveys mailed

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 1. It was relatively easy to file a complaint with the Department.	5	0	0	0	0	0
Q 2. Department staff communicated with me in a courteous and professional manner.	5	0	0	0	0	0
Q 3. I believe Department staff understood the basis of my complaint.	2	0	0	1	2	0

Complaints (Continued)

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 4. The response provided by the Department addressed the important aspects of my complaint.	1	0	0	1	2	1
Q 5. The explanation given was fair considering applicable laws.	2	1	1	0	1	0
Q 6. The Department website was helpful in the complaint process	2	2	1	0	0	0