



CREDIT UNION COMMISSION MEETING

*Credit Union Department Building
914 East Anderson Lane
Austin, Texas*

**November 3, 2023
9:00 a.m.**

AGENDA

This meeting of the Texas Credit Union Commission will be held at the Credit Union Department Building at 914 E. Anderson Ln., Austin, Texas 78752 and is open to the public. Only onsite testimony will be allowed; however, the meeting will be transmitted live through a link on the Department's webpage at www.cud.texas.gov on the day of the meeting, November 3, 2023 at 9:00 a.m.

An electronic copy of the agenda is now available at www.cud.texas.gov under Credit Union Commission, Commission Meetings, along with a copy of the meeting materials. A recording of the meeting will be available after November 17, 2023. To obtain a recording, please contact Isabel Velasquez at 512-837-9236.

Public comment on any agenda item or issue under the jurisdiction of the Credit Union Commission is allowed. Unless authorized by a majority vote of the meeting quorum, the comments of any persons wishing to address the Commission will be limited to no more than ten (10) minutes.

The Commission may discuss and/or take action regarding any item on this agenda.

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Adjournment

Executive Session: The Credit Union Commission may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

Meeting Recess: 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 Joel Arevalo, 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

- ***Jim Minge, Chair***
- ***Elizabeth L. “Liz” Bayless, Vice Chair***
- ***David Bleazard***
- ***Karyn C. Brownlee***
- ***Beckie Stockstill Cobb***
- ***David F. Shurtz***
- ***Kay Rankin Swan***

Legal Counsel

- ***Karen L. Miller***

Staff

- ***Michael S. Riepen***
- ***Robert W. Etheridge***
- ***Joel Arevalo***
- ***Isabel Velasquez***

B

CREDIT UNION COMMISSION MEETING MINUTES

Draft copies of the minutes for the August 11, 2023, 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 August 11, 2023, be approved as presented.

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
August 11, 2023

A. CALL TO ORDER -- Chair Jim Minge called the meeting to order at 9:02 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Texas Government Code, and declared that a quorum was present. Other members present included Liz Bayless, David Bleazard, Karyn Brownlee, Beckie Stockstill Cobb, David Shurtz and Kay Rankin-Swan. The Chair introduced attorney general counsel Amber Wodraska who will serve as legal counsel for the commission at the meeting. Representing the Department staff were Commissioner Michael S. Riepen, Deputy Commissioner Robert W. Etheridge, Director of Information and Technology Joel Arevalo, and Executive Assistant Isabel Velasquez. Chair Minge appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted with the Secretary of State (**July 25, 2023 TRD#2023004274**).

B. MINUTES OF PREVIOUS MEETINGS (March 10, 2023) -- The Chair referred the members to the draft minutes of the previous meeting included in the agenda packet and asked for any proposed edits. Hearing none, the Chair asked for a motion to approve the minutes. Mrs.. Cobb moved for approval of the minutes of March 10, 2023, as presented. Mr. Bleazard seconded the motion, and the Commission carried the motion unanimously.

Chair Minge suggested rearranging the agenda to Item D to allow additional time for the Internal Auditor to arrive.

D. (1) COMMISSION POLICY MANUAL CHANGES – Chair Bleazard of the Policy Manual Review Committee briefly reported that a committee was created to review the manual changes, to implement with within the manual

recommendations from other state agencies such as the Sunset Commission and to implement other necessary changes that arise. On March 9, 2023, the Committee met to approve the proposed changes to the commission policy manual with proposed changes to the Commission at its August meeting for adoption. A copy of the Commission Policy Manual implementing the proposed changes was distributed to all Commission members for final review.

- **Liz Bayless, Commission member**, reported on a few proposed changes to the Commission Policy Manual.
- **Melodie Durst, Executive Director, Credit Union Coalition of Texas**, questioned if there's going to be any changes made to the reserve policy. Chair Minge responded that the reserve policy was revised last year, and perhaps take another look at the policy further, but not at this point. Furthermore, Mr. Minge reported that the changes made last year would stand for a little bit more before we went back again for further revisions.

After a brief discussion, Mrs. Bayles moved that the Commission approve and adopt the proposed changes to the Commission Policy Manual as discussed at today's meeting. Mrs. Cobb seconded the motion, and the Commission carried the motion unanimously.

Chair Minge expressed his thanks and hard work to the Committee, especially David Bleazard and Karyn Brownlee for this was a long process to complete and feels good to be done.

C. (1) DISCUSSION AND POSSIBLE VOTE FOR THE COMMISSION TO APPROVE THE INTERNAL AUDIT CHARTER.

(2) DISCUSSION AND POSSIBLE VOTE FOR THE COMMISSION TO APPROVE THE SUBMISSION OF THE ANNUAL INTERNAL RISK ASSESSMENT REPORT.

(3) DISCUSSION AND POSSIBLE RECOMMENDATION FOR THE COMMISSION TAKE ACTION ON THE PROPOSED FY 2024 INTERNAL AUDIT PLAN.

(4) DISCUSSION AND POSSIBLE RECOMMENDATION FOR THE COMMISSION TO TAKE ACTION ON THE FY 2023 ANNUAL INTERNAL AUDIT REPORT.

Chair Swan reported that as part of the Sunset review it was recommended that our agency implement an internal audit program. After a lengthy process and successfully completing the procurement requirements the audit contract was awarded to Weaver and Tidwell in March. Mrs. Swan further reported that the Audit Committee reviewed the Internal Audit Charter, Internal Risk Assessment Report, the Proposed FY 2024 Internal Audit Plan, and the FY 2023 Annual Audit Internal Report.

Daniel Graves with Weaver & Tidwell provided at the August 10th Audit Committee meeting with a detailed review of the process that have taken place so far. Mr. Graves and Commissioner Riepen shared that this process has included meetings onsite for input providing the Audit firm an overview of the agency's risk management, internal controls processes, and procedures already in place. As a result of these meetings, the staff and Auditors have provided the Committee with a proposed Audit Charter and Audit Plan. The Risk Assessment provides us with the weighted risks rated and sorted high to low with the probability and impact they could have on the agency. The audit areas are summarized for FY 2024, 2025 and 2026.

Mrs. Swan asked that before the vote takes place on the Audit Committee's recommendations for approval of the Audit Charter, Risk Assessment, the FY 2024 Internal Audit Plan, and the FY 2023 Internal Audit Report, to allow Mr. Graves with Weaver & Tidwell share with the full Commission his overview of their process and where we are at this point. Mr. Graves reported that based on our August 10th meeting we did have a few amended documents and have been redistributed this morning.

After a lengthy discussion, Mrs. Swan moved that the Commission approve the Internal Audit Charter, the Annual Internal Risk Assessment Report, the FY 2023 Annual Internal Audit Report, and the FY 2024 Internal Audit Plan. Mr. Shurtz seconded the motion, and the Commission carried the motion unanimously.

E. DISCUSSION AND CONSIDERATION OF THE DEPARTMENT'S FY 2023 BUDGET AND FINANCIAL PERFORMANCE – Commissioner Riepen reported that in 2022 the Commission adopted a strategic plan for Fiscal Years 2023-2027. The \$5.0 million FY 2023 budget approved by the Commission in June 2022 includes the maintenance and operating budget and capital improvement budget in support of the Strategic Plan. At the end of the nine months total expenditures were \$614.3 thousand or approximately 17 percent less than budgeted projections of \$3.68 million. Almost all expense categories performed below budgeted levels. Due to personnel vacancies, total personnel expenses accounted for about 50 percent of the budget variance. Other below budget items include travel related savings and Professional Services and Fees.

A brief discussion, the Commission took no action.

F. DEPARTMENT'S OPERATING PLAN AND BUDGET FOR FISCAL YEAR 2024. – Commissioner Riepen explained that consistent with the Budget Assumptions approved by the Commission, the following pages detail a proposed

budget for FY 2024 of \$5,556,986 which represents a 9.88% increase from the FY 2023 budget. The proposed budget includes strategic initiative funding for the costs related to a conversion of the Department's existing database (\$180,500), an equity adjustment for Department staff based on House Bill 1 – General Appropriations Act (\$163,507), funding for anticipated promotions and merit increases (\$62,469), the addition of a Field Supervisor position in the second quarter of FY 2024 (\$135,373), the addition of an Assistant to the Executive Assistant to the Commissioner during the second half of the FY 2024 (\$32,588), and potential increases in internal audit costs if services/audits are added or expanded (\$10,000). The budget also includes capital improvement funding of \$9,000 for the addition of two modular office cubicles and \$30,000 to maintain our internal network infrastructure.

- **David Bleazard, Commission member** asked one additional question not related to the budget, but in regards that in the last few years we have spent a lot of time discussing the roof and we are not do anything until 2025. Deputy Commissioner Etheridge responded that TFC came out and reported the roof did not need to be replaced, but repaired and the estimated cost was between \$10,000 to \$15,000 before inflationary times hit. Mr. Bleazard explained that he understood that nothing was done in 2023 but waiting until 2025, is not wise and we should put it behind us.

Mr. Bleazard encouraged Commissioner Riepen taking another look at this and if budget provides for repairs and maintenance for Fiscal Year 2024 let's consider doing this and put it behind us in terms of repairs.

- **Melodie Durst, Executive Director, Credit Union Coalition of Texas**, offered her appreciation for the discussion today. She believes it has been a great dialogue. She appreciated the interest in this process, but also wanted to thank the Commissioner, and Deputy Commissioner by spending a lot of

time with her and colleague Suzanne from the Cornerstone League going over the budget. Furthermore, she wants the Commission to know that she had the opportunity earlier to discuss and talk about these initiatives and how much it was appreciated.

- **Suzanne Yashewski, Regulatory & Compliance Counsel**, second everything Melodie Durst said. She appreciated the communication in the process. She believed that the items increased in this current budget are legitimate issues. It is so important to continue the dual chartering system and an essential part of that is having good examiners who are well trained. The longer we can keep them on staff, the better they are going to serve the community. She believes it is important to look at increasing to be competitive with other state agencies and with the federal agencies as well.

After a lengthy discussion, Mrs. Brownlee moved that the Commission adopt the proposed FY 2024 Operating Plan and Budget, with a total budget of \$4,446,986 and 35 FTEs. Mrs. Cobb seconded the motion, and the Commission carried the motion unanimously.

G. RULEMAKING MATTERS

(1) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter C (Members); Subchapter P (Other Forms of Equity Capital); and Subchapter Q (Access to Confidential Information) and Re-adoption of Rules. Commissioner Riepen reported that Section 2001.039, Texas 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 February 2020 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 has reviewed **7 TAC, Part 6, Chapter 12**

Subchapter C (Members); Subchapter P (Other Forms of Equity Capital); and Subchapter Q (Access to Confidential Information). Notice of the review and a request for comments on the rules in these chapters were published in the March 10, 2023, issue of the *Texas Register*. No comments were received regarding the review.

After a short discussion, Mrs. Cobb moved that the Commission find that the reasons for adopting **7 TAC, Part 6, Chapter 91, Subchapter C (Members); Subchapter P (Other Forms of Equity Capital); and Subchapter Q (Access to Confidential Information)** continue to exist and that the Commission adopt these rules. Mr. Bleazard seconded the motion, and the Commission carried the motion unanimously.

H. STATUS OF THE STATE CREDIT UNION SYSTEM – Deputy Commissioner Etheridge briefly indicated Texas economy performance and outlook continues to be strong. The unemployment rate for Texas as of May 31, 2023, was 4.1 percent, which was slightly above the 3.8 percent level from a year ago, but below the 5.0 level at year-end 2021.

Overall, the financial performance of Texas chartered credit unions has been exceptional for each of the last two calendar years. The first quarter results for 2023 reflect a continuation of strong operating performance trends, with sound capital strength and favorable loan quality trends reported. Net worth ratios for Texas chartered credit unions continue to strengthen and loan delinquency and loss trends are at some of the lowest levels in over seven years. While the outlook for the Texas industry appears positive based on current financial performance trends, it will remain imperative for credit unions and their management teams to adapt to the ever-changing economic trends (i.e., inflation, etc.), and political implications (i.e., local, national, and worldwide) to safeguard the financial interests of millions of Texans.

After a brief discussion of some of the key financial trends, no formal action was taken by the Commission.

I. RESOLUTIONS OF APPRECIATION FOR OUTGOING COMMISSION MEMBERS SHERRI MERKET AND YUSUF FARRAN –

Commissioner Riepen indicated that it is the practice of the Commission to adopt resolutions of appreciation to recognize the service of Commission members upon the completion of their terms of office.

After a short discussion, Mr. Bleazard moved to approve the Resolutions of Appreciation for Outgoing Commission Member Sherri Merket and Yusuf Farran, as presented, and directed that a copy of the appropriate resolutions be given to the former members as a token of the Commission's appreciation. Mrs. Cobb seconded the motion and the Commission carried the motion unanimously.

J. DISCUSSION AND CONSIDERATION OF THE CHAIR'S DESIGNATION OF A VICE CHAIR –

Chair Minge indicated that as required by Commission policy, the Chair must designate a Vice Chair. The Vice Chair serves at the will of the Chair and performs the duties of the presiding officer in the event of an absence or disability. Furthermore, our new policy allows for a nomination from the floor, which is what I would like to do today. Chair Minge asked if anybody would make a nomination from the floor for a Vice Chair. Mr. Bleazard nominated Liz Bayless as Vice Chair of the Commission. Mrs. Cobb seconded the motion, and the Commission carried the motion unanimously.

K. PENDING LITIGATION – Commissioner Riepen reported to the Commission that since the last meeting report, there have been no significant updates.

L. AGENDA ITEMS, ARRANGEMENTS, AND DATES. Chair Minge reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for Friday, November 3, 2023, at 9:00 a.m., in Austin. Mr. Minge inquired if anyone had any suggested agenda items for our November 3rd meeting. Mrs. Brownlee replied we should talk about fees.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Minge adjourned the meeting at 10:50 a.m.

Jim Minge
Chairman

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 10-18-2023)
<u>August 11, 2023</u>		
7 TAC, Part 6, Chapter 91 Subchapter C (Members)	Published in <i>Texas Register</i> as readopted rules.	Published in <i>Texas Register</i> on 08/25/2023.
7 TAC, Part 6, Chapter 91 Subchapter P (Other Forms of Equity Capital)	Published in <i>Texas Register</i> as readopted rules.	Published in <i>Texas Register</i> on 08/25/2023.
7 TAC, Part 6, Chapter 91 Subchapter Q (Access to Confidential Information)	Published in <i>Texas Register</i> as readopted rules.	Published in <i>Texas Register</i> on 08/25/2023.

C

RULES COMMITTEE

The Rules Committee is a standing committee of the Commission. It has been charged with the managing, the review, and development of Commission rules and, as appropriate, propose any legislative changes that may be necessary to preserve the attractiveness of a Texas charter.

COMMITTEE MEMBERS

- ❖ David F. Shurtz, Chair
- ❖ Elizabeth L. “Liz” Bayless
- ❖ Beckie Stockstill-Cobb
- ❖ Jim Minge, Ex-Officio

The Rules Committee met on November 2, 2023, in a public meeting to discuss one item. The Committee will report on its activities for consideration and possible vote by the Commission.

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 any time 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 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.

EMERGENCY RULES

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 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 any time 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.

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.

RULEMAKING MATTER

One item is being presented to the Commission for its information, consideration, and/or possible action. Specifically, the Commission will discuss, consider, and possibly take action on:

- a. Proposed Amendments to **7 TAC, Part 6, Chapter 97, Subchapter B, Section 97.113** (Fees and Charges).

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

FEES AND CHARGES

C. (a) Proposed Amendments to Rule 7 TAC, Part 6, Chapter 97, Subchapter B Section 97.113 (Fees and Charges).

BACKGROUND:

Operations of the Credit Union Department are funded by assessment of an operating fee. This fee is implemented and calculated under rule 97.113. Fees are assessed in declining percentages as assets of a credit union increase. For instance, a \$100 million dollar credit union pays \$20,410 calculated as follows:

- \$200 on the first \$200,000 of assets
- .001625 times \$800,000, the assets between \$200,000 and \$1 million or \$1,300 (\$1,500 total).
- .000340 times \$9 million, the assets between \$1 million and \$10 million or \$3,060 (\$4,560 total).
- .000140 times \$15 million, the assets between \$10 million and \$25 million or \$2,100 (\$6,660 total)
- .000170 times \$25 million, the assets between \$25 million and \$50 million or \$4,250 (\$10,910 total)
- .00019 times \$50 million, the assets between \$50 million and \$100 million or \$9,500 (\$20,410 total)

The most recent adjustment to the fee schedule was made July 12, 2009. That amendment consolidated 5 brackets and increased the maximum bracket from \$1 billion and over to \$2 billion and over. Percentages were slightly decreased or remained the same in that amendment.

This amendment consolidates 3 brackets, sets the minimum bracket at \$3 million in assets and creates a new lower percentage bracket for credit unions greater than \$6.8 billion in assets. It increases the base fee from \$200 to \$1,450 and slightly lowers the percentage assessment for credit unions under \$100 million in assets. The percentage assessment for credit unions between \$100 million and \$1 billion in assets have a slight increase but remain below comparable percentage assessments by the NCUA and DOB. The percentage assessment for assets between \$2 and \$6.8 billion remain the same.

PURPOSE OF AMENDMENT

There is an increased need for funds to support budget flexibility for long range planning, respond to increased reliance on technology (by both the departments and the entities it regulates), respond to greater complexity surrounding risks at credit unions, address the need to prepare for retirements of key staff, increase operating reserves and fund deferred facility maintenance costs. Additionally, a large state regulated credit union, converted to a Federal Charter, which caused a significant revenue decrease.

In response to these issues, the operating fee schedule was reviewed to address an equitable methodology to increase potential fees, streamline the operating fee process, minimize the impact on regulated institutions and maintain competitive parity with other financial institution regulators. To assess the reasonableness of current or proposed fees, we analyzed the Credit Union Department's (CUD) current and proposed fee structure compared to the NCUA (NCUA) and the Texas Department of Banking (DOB). This revealed the following:

- Both the NCUA and DOB fee schedules result in significantly more revenue for regulation of a similar portfolio (number and asset size) of institutions. The NCUA operating fees schedule generates over \$8.6 million, compared to the CUD schedule that generates \$5.6 million or 35% less.
- NCUA's structure favors smaller institutions.
- DOB's structure favors larger institutions.
- CUD's structure favors larger institutions.
- A chart showing percentage of regulated assets relative to current and proposed fee assessments in the categories and comparison to other agencies is below:

Asset Size	% Assets Regulated	% Current CUD Assessment	% Proposed CUD Assessment	Compare % under NCUA scheme	Compare % under DOB scheme
<\$100M	5.0%	12.9%	10.4%	5.3%	19.3%
>\$100M<\$250M	6.5%	10.6%	9.6%	7.0%	12.0%
>\$250m<\$1,000M	30.4%	30.9%	32.4%	33.0%	29.8%
>\$1,000M	58.1%	45.5%	47.6%	54.7%	38.9%

The amendments address the inequities while maintaining a lower fee structure and eliminating unnecessary categories (three categories of fee percentages are eliminated). The new calculations provide nominal

regulator fee relief to Credit Unions under \$200 million in assets and protect the larger institutions with a maximum dollar increase of \$19,640 and add a top tier, to address when a credit union exceeds assets of \$6.8 billion the percentage factor will reduce from .000062 to .000040.

Additionally, we are proposing an amendment to give the Commissioner the authority to reduce the operating fee in addition to simply waiving it. This gives the Department more flexibility in situations where an adjustment to the fee may be appropriate, while waiving the entire fee is unnecessary.

RECOMMENDED ACTION: The Committee recommends that the Commission approve for publication and comment the proposed amendments to Rule 7 TAC Section 97.113.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (the Commission) proposes amendments to 7 TAC, Chapter 97, Section 97.113 concerning fees and charges, waiver of fees and semi-annual assessments.

Specifically, the rule changes will:

- fund necessary additional security and operating costs,
- allow the commissioner to reduce, not simply waive, operating fees for individual credit unions,
- align the annual operating fee matrix and methodology with other financial institutions' operating fees methodology, and
- realign the asset size brackets to reflect current asset growth of regulated credit unions.

Texas Finance Code, Section 15.402 (c), authorizes the Commission to establish reasonable and necessary fees for the administration of the Credit Union Department.

Proposed amendments to paragraph (b) include changes to the fee schedule as follows:

1. Changes the base operating fee for the first \$200,000 in assets to the first \$3 million in assets.
2. Changes the base assessment amount from \$200 to \$1,450.
3. Deletes the category of \$200 thousand to \$1 million.
4. Changes the category of \$1 million to less than \$10 million to \$3 million to less than \$10 million.
5. Decreases the rate from a base of \$1,500 to \$1,450 and decreases the percentage assessed from .00034 to .00025 of assets on assets between \$3 million and \$10 million.
6. Deletes two specific categories from \$10 million to \$25 million and \$25 million to \$50 million.
7. Changes the category of \$50 million to \$100 million to \$10 million to \$100 million.
8. Decreases the base amount of the \$10 million to \$100 million category from \$4,560 to \$3,200.
9. Fixes the percentage assessment on assets between \$10 and \$100 million from a range of .00014 to .00019 to a new rate of .000165.
10. Decreases the base assessment for assets between \$100 million and \$500 million from \$20,410 to \$18,050.
11. Increases the percentage assessed on assets between \$100 million and \$500 million from .00008 to .00010.
12. Increases the base assessment for assets between \$500 million and \$1 billion from \$52,410 to \$58,050.
13. Increases the percentage assessed on assets between \$500 million and \$1 billion from .000072 to .000082.
14. Increases the base assessment for assets between \$1 billion and \$2 billion from \$88,410 to \$99,050.
15. Increases the percentage assessed on assets between \$1 billion and \$2 billion from .000069 to .000078.
16. Changes the category of \$2 billion and over to \$2 billion but less than \$6.8 billion.
17. Increases the base amount on the \$2 billion and over category from \$157,410 to \$177,050 (an increase of \$19,640).
18. Adds a category of \$6.8 billion and over of assets.
19. Sets a base amount for over \$6.8 billion in assets of \$474,650.

18. Adds a category of \$6.8 billion and over of assets.
19. Sets a base amount for over \$6.8 billion in assets of \$474,650.
20. Reduces the percentage assessed on assets over \$6.8 billion from .000062 to .000040.

Proposed amendments to (c), adds the ability of the Commissioner to reduce the operating fee of an individual credit union, in addition to being able to waive the fee.

STATE AND LOCAL GOVERNMENTS

Michael S. Riepen, Commissioner, has determined that for the first five-year period that the rule changes are in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the rule changes.

STATEMENT OF PUBLIC COST AND BENEFITS

Mr. Riepen has also determined that for each year of the first five years the rules are in effect, the public will benefit from the adoption of the proposed amendments because it will provide for investment by the Department in technology, training, data security, addressing financial risks and addressing operational risks.

SMALL AND MICRO BUSINESSES AND RURAL COMMUNITIES

Mr. Riepen has also determined that for each year of the first five years the rule changes are in effect, there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. This will increase regulatory costs to credit unions with assets larger than \$238 million and two credit unions under \$1 million in assets. Allowing the commissioner to reduce fees in addition to waiving them provides flexibility in mitigating any impact to an institution. The maximum \$19,640 proposed fee increase for the larger credit unions is of an amount that is considered immaterial to the profitable operations of these institutions.

GOVERNMENT GROWTH IMPACT STATEMENT

- Except as may be described below to the contrary, for each year of the first five years that the rules will be in effect, the rules will not:
- Create or eliminate a government program;
- Require the creation of new employee positions or the elimination of existing employee positions;
- Require an increase or decrease in future legislative appropriations to the agency;
- Create new regulations;
- Expand, limit, or repeal an existing regulation;
- Increase or decrease the number of individuals subject to the rule's applicability; or
- Positively or adversely affect this state's economy.

NEED FOR DEPARTMENT OPERATING FLEXIBILITY

Adjustments to the operating fee will provide for nominal, but much needed, funds for operations flexibility. This is needed for strategic expenditures related to:

- Investment in cybersecurity related to the systems utilized by the Credit Union Department.
- Investment in technology upgrades.
- Creation of a position for a full-time training examiner and a Subject Matter Expert related to more complex, and/or problematic CU operations.
- Investment in an internal audit and internal controls.
- Implementation of a succession plan related to future retirements in key positions.
- Additional flexibility to fund unexpected operating costs.

PARITY WITH REGARD TO OTHER DEPOSITORY INSTITUTIONS

Changes to the operating fee schedule will provide for greater parity with other depository institutions who currently charge higher incremental rates at most asset levels. The Texas Finance Code, Section 15.402(b)(3) provides "...the commission shall consider the need to.... (3) preserve and protect the competitive parity of credit unions with regard to other depository institutions consistent with the safety and soundness.... (c) requires that "The commission by rule shall establish reasonable and necessary fees for the administration of this chapter and Subtitle D, Title 3." (The Texas Credit Union Act).

COMMENTS

Written comments on the proposed amendments may be submitted to Michael S. Riepen, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@tud.texas.gov. To allow the Commission sufficient time to fully address all the comments it receives, all comments must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

AUTHORITY

The rule changes are proposed under Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code Title 2, Chapter 15 and Title 3, Subtitle D.

The statutory provision authorizing the proposed amendments is Texas Finance Code, Section 15.402 (c), regarding establishing reasonable and necessary fees for the administration of the Credit Union Department.

Supplemental for changes to 7 T.A.C. §97.113

Total budget comparisons to other chartering agencies:

ASSET SIZE- JUNE 2023	Count June 2023	SCU Asset total in Category	Total Portfolio Assessments			
			Current Assessment	NCUA equivalent Assessment	DOB equivalent Assessment	Proposed
Less than \$200,000	0	\$ -	\$ -	\$ -	\$ -	\$ -
\$200,000 to 1 m	2	\$ 1,219,142	\$ 1,731	\$ -	\$ 7,688.38	\$ 2,900.00
\$1,000,000 but less than \$3M	5	\$ 10,251,108	\$ 9,285	\$ 861.65	\$ 25,911.60	\$ 7,250.00
\$3M but less than \$10M	25	\$ 141,449,221	\$ 77,093	\$ 19,108.15	\$ 213,333.13	\$ 52,862.31
\$10M but less than \$25M	25	\$ 435,693,687	\$ 139,997	\$ 67,390.73	\$ 412,019.39	\$ 110,639.46
\$25M but less than \$40M	15	\$ 495,010,518	\$ 120,302	\$ 78,764.93	\$ 337,111.69	\$ 104,926.74
\$40M but less than \$50m	6	\$ 273,245,369	\$ 60,912	\$ 43,852.29	\$ 153,504.14	\$ 54,385.49
\$50M but less than \$70M	9	\$ 538,808,951	\$ 115,064	\$ 86,936.35	\$ 261,853.69	\$ 102,853.48
\$70M but less than \$100 M	11	\$ 982,209,600	\$ 202,130	\$ 159,365.78	\$ 397,681.16	\$ 179,114.58
\$100M but less than \$250M	24	\$ 3,735,655,233	\$ 596,692	\$ 609,045.51	\$ 1,122,184.19	\$ 566,765.52
\$250M to \$500M	14	\$ 5,206,167,970	\$ 590,233	\$ 851,982.84	\$ 1,012,375.35	\$ 633,316.80
\$500M but less than \$1,000M	16	\$ 12,285,053,408	\$ 1,147,084	\$ 2,013,228.97	\$ 1,774,639.24	\$ 1,280,174.38
\$1,000M but less than \$2,000M	9	\$ 11,723,167,908	\$ 983,589	\$ 1,922,177.81	\$ 1,438,759.42	\$ 1,103,857.10
\$2,000 M to \$2.26	2	\$ 4,171,558,168	\$ 325,457	\$ 684,182.80	\$ 455,933.04	\$ 364,736.61
2.26 billion to 6.8 billion	5	\$ 17,472,044,805	\$ 1,250,317	\$ 2,148,543.73	\$ 1,752,276.70	\$ 1,348,516.78
\$5 Billion to \$6.8 Billion	0	\$ -	\$ -	\$ -	\$ -	\$ -
NCUA Max Tier over 6.8 billion**	0	\$ -	\$ -	\$ -	\$ -	\$ -
Total	168	\$ 57,471,535,088	\$ 5,619,885.03	\$ 8,685,441.55	\$ 9,365,271.13	\$ 5,912,299.23

Sample Operating Fee Comparison

Assets	CUD (current)	NCUA	DOB	CUD (Proposed)
\$ 200,000	\$ 200.00	\$ -0	\$ 3,463.77	\$ 1,450.00
\$ 1,000,000	\$ 1,500.00	\$ -0	\$ 4,206.84	\$ 1,450.00
\$ 10,000,000	\$ 4,560.00	\$ 1,476.81	\$ 12,566.36	\$ 3,150.00
\$ 25,000,000	\$ 6,660.00	\$ 3,938.16	\$ 20,471.35	\$ 5,625.00
\$ 50,000,000	\$ 10,910.00	\$ 8,041.41	\$ 26,676.75	\$ 9,750.00
\$ 100,000,000	\$ 20,410.00	\$ 16,244.91	\$ 31,579.69	\$ 18,000.00
\$ 500,000,000	\$ 52,410.00	\$ 81,880.91	\$ 84,804.50	\$ 58,000.00
\$ 1,000,000,000	\$ 88,410.00	\$ 163,925.91	\$ 133,551.52	\$ 99,000.00
\$ 2,000,000,000	\$ 157,410.00	\$ 328,015.91	\$ 220,507.52	\$ 177,000.00
\$ 9,000,000,000	\$ 591,410.00	\$ 623,450.05	\$ 797,571.52	\$ 562,600.00

Subchapter B. Fees

§97.113. Fees and Charges.

(a) Remittance of fees.

(1) Each credit union authorized to do business under the Act shall remit to the department an annual operating fee. The fee shall be paid in semi-annual installments, billed effective September 1 and March 1 of each year. The final installment may be adjusted as provided by subsection (d) of this section. Installments received after September 30 or March 30 of each year will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(2) Credit unions that exit the Texas credit union system on or before August 31 or February 28 of a given year, will not be subject to the semi-annual assessment for the period beginning September 1 or March 1, respectively. Only those credit unions leaving the state credit union system prior to the close of business on those dates avoid paying the semi-annual assessment for the period beginning September 1 or March 1, as applicable.

(b) Calculation of operating fees. The schedule provided in this section shall serve as the basis for calculating operating fees. The base date shall be June 30 of the year in which operating fees are calculated. The asset base may be reduced by the amount of reverse-repurchase balances extant on the June 30 base date. The commissioner is authorized to increase the fee schedule once each year as needed to match revenue with appropriations. An increase greater than 5% shall require prior approval of the commission. The commissioner shall notify the commission of any such adjustment at the first meeting of the commission following the determination of the fee schedule.

For Credit Unions with Total Assets Of:

The Operating Fee is:

Less than **\$3M** [**\$200,000**]

\$1,450 [**\$200**]

[\$200,000 but less than \$1M]

[\$200 plus .001625 of excess over \$200,000]

\$3M [**\$1M**] but less than \$10M

\$1,450 [**\$1,500**] plus **.00025** [**.00034**] of excess over **\$3M** [**\$1M**]

[\$10M but less than \$25M]

[\$4,560 plus .00014 of excess over \$10M]

[\$25M but less than \$50M]

[\$6,660 plus .00017 of excess over \$25M]

\$10M [**\$50M**] but less than \$100M

\$3,200 [**\$10,910**] plus **.000165** [**.00019**] of excess over **\$10M** [**\$50M**]

\$100M but less than \$500M	<u>\$18,050</u> [<u>\$20,410</u>] plus <u>.00010</u> <u>[.000080]</u> of excess over \$100M
\$500M but less than \$1,000M	<u>\$58,050</u> [<u>\$52,410</u>] plus <u>.000082</u> <u>[.000072]</u> of excess over \$500M
\$1,000M but less than \$2,000M	<u>\$99,050</u> [<u>\$88,410</u>] plus <u>.000078</u> <u>[.000069]</u> of excess over \$1,000M
\$2,000M <u>but less than \$6,800M</u> [and over]	<u>\$177,050</u> [<u>\$157,410</u>] plus .000062 of excess over \$2,000M
<u>\$6,800M and over</u>	<u>\$474,650</u> plus <u>.00004</u> of excess <u>over \$6,800M</u>

- (c) Waiver or reduction of operating fees. The commissioner is authorized to waive or reduce the operating fee for an individual credit union when good cause exists. The commissioner shall document the reason(s) for each waiver or reduction of operating fees and report such waiver or reduction to the commission at its next meeting.
- (d) Adjustment of an installment. The commissioner in the exercise of discretion may, after review and consideration of actual revenues to date and projected revenues for the remainder of the fiscal year, lower the amount of the final installment due from credit unions.
- (e) Supplemental examination fees.
 - (1) If the commissioner or deputy commissioner schedules a special examination in addition to the regular examination, the credit union is subject to a supplemental charge to cover the cost of time and expenses incurred in the examination.
 - (2) The credit union shall pay a supplemental fee of \$50 for each hour of time expended on the examination. The commissioner may waive the supplemental fee or reduce the fee, individually or collectively, as he deems appropriate. Such waiver or reduction shall be in writing and signed by the commissioner. The department shall fully explain the time and charges for each special examination to the president or designated official in charge of operations of a credit union.
- (f) Foreign credit union branches. Credit unions operating branch offices in Texas as authorized by §91.210 of this title (relating to Foreign Credit Unions) shall pay an annual operating fee of \$500 per branch office.
- (g) Credit union conversion fee. A credit union organized under the laws of the United States or of another State that converts to a credit union organized under the laws of this State shall remit to the department an annual operating fee within 30 days after the issuance of a charter by the commissioner. The schedule provided in subsection (b) of this section shall serve as the basis for calculating the operating fee. All provisions set forth in subsection (b) of this section shall apply to converting credit unions with the following exceptions:
 - (1) Should the effective date of the conversion fall on or after October 31, the base date shall be the calendar quarter end immediately preceding the issuance date of a charter by the commissioner.

(2) The amount of the operating fee calculated under this section will be prorated based upon the number of full months remaining until September 1. For example, should the effective date of the conversion be January 31, the converting credit union will remit seven-twelfths of the amount of the operating fee calculated using December 31 base date.

(3) Any fee received more than 30 days after the issuance of a charter will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

- (h) Mergers/Consolidations. In the event a credit union in existence as of June 30 merges or consolidates with another credit union and the merger/consolidation is completed on or before August 31, the surviving credit union's asset base, for purposes of calculating the operating fee prescribed in subsection (b) of this section, will be increased by the amount of the merging credit union's total assets as of the June 30 base date.
- (i) Special assessment. The commission may approve a special assessment to cover material expenditures, such as major facility repairs and improvements and other extraordinary expenses.
- (j) Foreign credit union fee for field of membership expansion. A foreign credit union applying to expand its field of membership in Texas shall pay a fee of \$200. This fee shall be paid at the time of filing to cover the cost of processing the application. In addition, the applicant shall pay any cost incurred by the department in connection with a hearing conducted at the request of the applicant.
- (k) Foreign credit union examination fees.

(1) If the commissioner schedules an examination of a foreign credit union, the credit union is subject to supplemental charges to cover the cost of time and expenses incurred in the examination.

(2) The foreign credit union shall pay a fee of \$50 for each hour of time expended by each examiner on the examination. The commissioner may waive the examination fee or reduce the fee as he deems appropriate.

(3) The foreign credit union shall also reimburse the department for actual travel expenses incurred in connection with the examination, including mileage, public transportation, food, and lodging in addition to the fee set forth in paragraph (2) of this subsection. The commissioner may waive this charge at his discretion.

- (l) Contract Services. In addition, the commissioner may charge, or otherwise cause to be paid by, a credit union, a foreign credit union or related entities the actual cost incurred by the department for an examination or a review of all or part of the operations or activities of a credit union, a foreign credit union or related entity that is performed under a personal services contract entered into between the department and third parties.

COMMISSIONER EVALUATION COMMITTEE REPORT

D. (a) The Commissioner Evaluation Committee is a standing committee of the Commission. The Committee will report on their activities and recommendations to the Commission.

- ❖ Recommendation that the Credit Union Commission take action to approve the Commissioner's FY 2023 Performance Review and FY 2024 Remuneration.

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



CREDIT UNION DEPARTMENT COMMISSIONER PERFORMANCE EVALUATION PROCESS

Per the Texas Credit Union Commission's Policy Manual, the Evaluation Committee will coordinate an annual review of the Credit Union Commissioner's performance. Each annual review will reflect the Commissioner's leadership of the Department during the recently completed Fiscal Year. The purpose of this annual review is to ensure the effective management and oversight of the Texas Credit Union Department, to consider adjustments to the Commissioner's salary, and to set leadership goals with the Commissioner for the ensuing year. The evaluation process will begin at the Fiscal Year end (August 31,) and will culminate at the last regularly scheduled Commission meeting of the calendar year.

This process is fully outlined in this document and is to be updated yearly as necessary and as instructed within. The process includes the Commissioner Performance Evaluation Tool (Parts I-V,) the Commissioner Performance Evaluation Report, and the Commissioner Performance Evaluation Decision (Re: Commissioner Renumeration.)

At the close of the Fiscal Year, the Commissioner shall complete Part I: Self-Evaluation of the Commissioner Performance Evaluation Tool according to the instructions given and shall send all required information in electronic form to the Commission Members by September 30. (The Part I submission shall include at a minimum: completed tables from Parts II and III with FY actual results, self-scores, leadership goal documentation, written reflections, and proposal of new goals.) The Chair of the Evaluation Committee shall communicate with the Commissioner and Executive Assistant to confirm this important step occurs.

After this, the Chair will work with the Executive Assistant to ensure the immediate distribution of this Commissioner Performance Evaluation Process document to all Commission Members for their use. Subsequently, the Commission Members shall refer to the Commissioner's submission of Part I: Self-Evaluation to individually complete Parts II, III and IV. They may choose to also use any other documentation available to them. Members shall return their completed Performance Evaluation Tools Parts II, III and IV directly to the Chair of the Evaluation Committee to provide confidentiality and protect the integrity of this process. Tools shall be sent to the Chair of the Evaluation Committee by October 20.

The Chair of the Evaluation Committee will then compile results in preparation for an annual Evaluation Committee meeting to be held during the week of the last regularly scheduled Commission meeting of the calendar year. The Committee shall discuss the results in Executive

Session and prepare two recommendations for the Commission. These shall include: 1) adoption of the Committee's reporting of results for the Commissioner Performance Evaluation, and 2) adoption of the Commissioner Performance Evaluation Process document for the ensuing fiscal year as updated by the Evaluation Committee. These recommendations shall be presented to the Commission for consideration and approval at the last regularly scheduled Commission meeting of the calendar year, typically held in November.

The Commission should address the recommendations above and discuss in Executive Session the Commissioner's Renumeration for the coming year. The Commissioner is the only position at the Department that is exempt from the State's Position Classification Plan. The Credit Union Commission has sole authority to determine the salary for this position. It is prudent for the Commission to make current salary comparisons through reports such as the State Auditor's Office August 2020 Report on Executive Compensation at State Agencies (Report No. 20-706) and comparable salary information of selected positions at state and federal regulatory agencies with similar responsibilities. Currently, the Commissioner's salary state position classification is 6.

The Chair of the Evaluation Committee will meet with the Commissioner immediately following the Commission Meeting for necessary signatures and ensure appropriate filing of documents. The Commissioner and Executive Assistant will send the required copies to the appropriate individuals and departments. The originals shall be kept on file at the Department.

CREDIT UNION DEPARTMENT
COMMISSIONER PERFORMANCE EVALUATION TOOL
Credit Union Commissioner: Mike Riepen
Fiscal Year of Evaluation: September 1, 2022-August 31, 2023

Part I. Self-Evaluation (Must be completed by Commissioner)

A. Documentation

Review and respond to Part II: Objective Evaluation. Complete Table A with actual results for FY 2023 and score your performance using the scoring key provided. Complete Table B by scoring yourself on each leadership goal, noting what type of documentation you are including with your submission. All data and documentation, as well as your self-scores, will be reviewed by each Commission Member as they complete their individual evaluation of your performance.

B. Reflection

Review and respond to Part III: Subjective Evaluation. Score your performance using the scoring key provided. Choose 2-3 items in each of the three sections and provide written reflections. This is your opportunity to explain your reasoning for the scores you have given yourself. You may provide additional documentation or information if you choose, but it is not required. Your self-scores, written reflections and any additional documentation will be reviewed by each Commission Member as they complete their individual evaluation of your performance.

C. Projection

Write at least three or more leadership goals for the ensuing fiscal year for the Evaluation Committee's consideration.

First, consider these guiding questions and others that may come to mind. You may share your written thoughts with the committee or keep them to yourself.

- What are the top five priorities of the Department at present?
- What are the needs of your staff?
- What obstacles did you encounter this year?
- How can your leadership style be improved and made more effective?
- Are there any books or professional development programs you would like to pursue?

After reflecting on the questions above, propose your new leadership goals for next year. The Committee will review your input as they prepare their recommendations to the Commission.

Write your proposed goals with the starter, “The Commissioner will...”

- ✓ What leadership goals would you propose for yourself for FY 2024? (Minimum 3)

Part II. Objective Evaluation (65%)

Scoring of Goals and Measured Objectives:

- 3 = Goal/obj was exceeded
- 2 = Goal/obj was achieved
- 1 = Goal/obj was partially achieved
- 0 = Goal/obj was not achieved

A. Performance Measures from FY 2023 Annual Operating Plan & Budget

Measured Objective	Target	FY Actual	Score
Strategic Goal 1			
Percentage of credit unions receiving regular examination annually	75%		
Percentage of applications approved or denied within 60 days	100%		
Percentage of credit unions with composite CAMEL ratings of 1 or 2	85%		
Percentage of assets held in credit unions with CAMEL ratings of 1 or 2	95%		
Percentage of credit unions that are "Well Capitalized" as defined by federal statute	95%		
Percentage of reports mailed to credit unions within 25 days	98%		
Percentage of total available work time utilized to conduct both regular and remedial examination work (aka E-Time Ratio)	65%		
Assets examined per examiner day	\$17.6 million		
Average time to complete analysis of quarterly financial data (after the submittal deadline for the most recent 5300 Call Report)	within 40 days		
Strategic Goal 2			
Percentage of rule changes provided to credit unions within 60 days after adoption	100%		
Percentage of interpretations/opinions issued within 30 days	100%		
Strategic Goal 3			
Percentage of complaints responded to within 30 days	95%		
Strategic Goal 4			
Percentage of exam related travel cost reduced by remote work	20%		
Annual examiner turnover rate	16%		
Average regulated assets per examiner (billions)	\$3.0 billion		
Percentage of purchases made from HUB vendors*:			
Professional Services	23.7%		
Other Services	26.0%		

Commodities	21.1%		
<i>*Three percentages reported but scored as one measure</i>			
Percentage of credit unions indicating quality service annually	90%		
Staffing level	95%		
Number of jobs fairs attended	2		
Turnover ratio (excluding retirements)	Less than 15%		
Accreditation by NASCUS Maintained in Good Standing	Yes		
Total Department costs relative to every \$100,000 in assets regulated	\$9.44		
Average Score (Total divided by 22)			

B. FY 2023 Leadership Goals

Goal	Documentation Included with Self-Evaluation (list (i.e., chart, certificate, summary, agenda, pictures, etc.))	Score
1. The Commissioner will...		
2. The Commissioner will...		
3. The Commissioner will...		
Average Score (Total divided by 3)		

Overall Average Score for All Goals and Measured Objectives (Total Averages divided by 2)	
--	--

Part III. Subjective Evaluation (35%)

Rating of Performance Behaviors:

3 = Exceeds expectations: Superior performance that consistently exceeds expectations.

2 = Meets expectations: Performance consistently meets and sometimes exceeds expectations.

1 = Below expectations: Performance may meet some expectations for the position, but improvement is necessary to move expectation to a satisfactory level.

0 = Does not meet expectations: Overall performance is unsatisfactory in all or most expectations.

A. Leadership

Leadership Performance Behavior	Score
1. Oversees the state credit union system and overall operation of the Department to ensure it is safe, sound, and competitive.	
2. Demonstrates expertise of the credit union industry, incl. state and federal statutory frameworks, applicable laws and regulations, and issues surrounding the industry.	
3. Identifies and proposes plans for strategic long-term goals so to fulfill the mission of the Department, cost-effectively and in compliance with all applicable laws and policies.	
4. Actively participates in regional and national meetings with federal regulators and in regulatory associations such as NASCUS.	
5. Ensures the Department is effectively staffed, and that staff are properly supervised, developed, and motivated to achieve their goals.	
6. Evaluates and proposes statutory and rule changes to promote the safety, competitiveness, and viability of Texas state-chartered credit unions.	
7. Reviews and revises Department policies and programs with sufficient frequency to ensure all internal and external policies and programs are current and appropriate.	
8. Represents the Department as a capable, dependable leader with great professionalism and integrity who has high standards for self as well as subordinates.	
9. Leads worthwhile, effective initiatives to ensure the viability of the Texas charter.	
Average Score (Total divided by 9)	

B. Financial Management

Financial Management Performance Behavior	Score
1. Develops and submits an appropriate annual budget for review and approval by the Commission.	
2. Monitors the status of the annual budget with effective frequency and detail.	
3. Keeps the Commission timely informed of significant deviations from the budget.	
4. Oversees all Department funds, financial activities, and funding requests so to assure the Department maintains a good financial position.	
5. Ensures integrity and fiscal responsibility by all staff involved in revenue collections and expenditures.	
6. Provides timely and effective written financial reports to the Commission.	
7. Demonstrates good judgment in financial decisions, ensuring expenditures are necessary, prudent, and within budgetary constraints.	
Average Score (Total divided by 7)	

C. Communication

Communication Performance Behavior	Score
1. Demonstrates the abilities to gain the respect of others, to be persuasive and to motivate others to a desired objective in difficult circumstances.	
2. Takes the initiative in interpreting programs to the Commission, in suggesting new ideas or plans, and in presenting matters for consideration.	
3. Maintains cohesive relationships and open communication with Commission members, staff, and other credit union leaders within the state and across state lines.	
4. Keeps the Commission informed of the financial condition and future needs of the Department and informs the Commission of potential problems in a timely manner.	
5. Keeps the Commission continuously informed of the functions of the Department and provides routine reports of the Department's programs and performance.	
6. Notifies the Commission of conservation orders and, immediately, of any request for a hearing to appeal a conservation order.	
7. Communicates well with the public, the media, various trade groups and associations, and when appropriate, the Legislature and Governor's office.	
8. Communicates effectively with the League and Coalition in a timely and appropriate manner, using a variety of communication measures.	
9. Promotes a positive organizational culture of mutual respect, service, teamwork, and care.	
10. Handles complaints, conflicts, issues, and concerns in a timely and professional manner.	
Average Score (Total divided by 10)	

Overall Average Score for All Performance Behaviors (Total Averages divided by 3)	
--	--

Part IV. Additional Feedback

A. Commendations/Comments

Write a few sentences summing up your view of the Commissioner's performance for the past fiscal year. Highlight specific accomplishments or areas. Attention to strengths is appreciated. Note any suggestions for individual or Department improvement or changes for the future.

B. Possible Goals for Next Year

Write any suggestions for possible leadership goals for the Commissioner for the ensuing year. Examples of annual goals: (a) projects that move the Department to a more automated environment, (b) professional development for the Commissioner or staff, (c) strategies for increasing efficiency and effectiveness.

Commission Member's Printed Name

Commission Member's Signature

Date of Completion

Part V. Final Steps

There are four final steps in the Commissioner Performance Evaluation Process to be completed by the Chair of the Evaluation Committee in conjunction with the Commission and their approval.

First, the Chair will compile the information, calculate the results, and complete the Commissioner Performance Evaluation Report. The Chair will bring this completed report to the Evaluation Committee in Executive Session for their review. Upon their decision, the Chair will then present these results to the entire Commission at the end-of-year Commission Meeting and share the committee's recommendation for their approval.

Second, the Chair, in collaboration with the Evaluation Committee, will update the Commissioner Performance Evaluation Process document for the subsequent Fiscal Year, revising appropriate dates and addressing specific items in its Tool. The Commissioner Performance Evaluation Tool shall be updated to reflect the leadership goals recommended by the Committee and approved by the Commission. It shall also be updated to modify the internal measure target percentages as needed from the new fiscal year budget; (this budget was previously approved by the Commission at the summer meeting.) The committee should also review the wording in the entire Process document and consider any revisions to improve these procedures.

Third, the Chair will complete the form, Commissioner Performance Evaluation Decision – Commissioner Renumeration. This will be completed after the end-of-year Commission Meeting to reflect the Commission's official decision.

Finally, the Chair will meet privately with the Commissioner immediately following the end-of-year Commission Meeting for the necessary signatures. The Chair will communicate with the Commissioner and Executive Secretary to ensure each of these documents is filed appropriately and the state takes necessary action regarding any changes to remuneration. The originals shall be kept on file at the Department.



**CREDIT UNION DEPARTMENT
COMMISSIONER PERFORMANCE EVALUATION REPORT
Fiscal Year of Evaluation: September 1, 2022-August 31, 2023
Credit Union Commissioner: Mike Riepen**

Part I. Self-Evaluation (Informational)

- _____ Satisfactorily Completed and Submitted on Time
_____ Satisfactorily Completed and Submitted Substantially Late
_____ Not completed

Part II. Objective Evaluation (65%)

Total of Commission Members' Part II Overall Average Scores: _____

$$\frac{\text{_____}}{\text{(Total from Above)}} \div \frac{9}{\text{(Number of Members)}} = \frac{\text{_____}}{\text{(Part II Average)}}$$

$$\frac{\text{_____}}{\text{(Part II Average)}} \times \frac{65\%}{\text{(Weight)}} = \frac{\text{_____}}{\text{(Part II Score)}}$$

Part III. Subjective Evaluation (35%)

Total of Commission Members' Part III Overall Average Scores: _____

$$\frac{\text{_____}}{\text{(Total from Above)}} \div \frac{9}{\text{(Number of Members)}} = \frac{\text{_____}}{\text{(Part III Average)}}$$

$$\frac{\text{_____}}{\text{(Part III Average)}} \times \frac{35\%}{\text{(Weight)}} = \frac{\text{_____}}{\text{(Part III Score)}}$$

Part IV. Additional Feedback

Part V. Final Evaluation

_____ + _____ = _____
(Part II Score) (Part III Score) (Total Score)

- _____ Clearly Outstanding
- _____ Exceeds Expectations
- _____ Below Expectations
- _____ Unsatisfactory

Evaluation Chair Printed Name

Evaluation Chair Signature

Date

Commissioner’s Printed Name

Commissioner’s Signature

Date



**CREDIT UNION DEPARTMENT
COMMISSIONER PERFORMANCE EVALUATION DECISION
COMMISSIONER RENUMERATION**

Fiscal Year of Evaluation: September 1, 2022-August 31, 2023

Credit Union Commissioner: Mike Riepen

Current Salary: \$ 200,000

Effective Date: October 3, 2022

Pay Adjustment: \$ _____ % _____

Future Salary: \$ _____ **Effective Date:** _____

Evaluation Chair Printed Name

Evaluation Chair Signature

Date

Commissioner's Printed Name

Commissioner's Signature

Date



Credit Union Department
State of Texas

FY 2024 Annual Operating Plan & Budget

Approved by the Credit Union Commission
August 11, 2023

INTRODUCTION

In accordance with Chapter 16 of the Finance Code, the Department has crafted the following *FY 2024 Annual Operating Plan and Budget*. This document aligns the goals and measures developed for the Department's *Strategic Plan for Fiscal Years 2023-2027* with the Department's proposed budget. It aims to improve the links between the Department's resource needs, effectiveness, and outcomes.

THE DEPARTMENT TODAY

The Department is a self-directed and semi-independent agency that is responsible for ensuring a safe and sound credit union system for all Texans. This is accomplished through the effective chartering, regulation, and supervision of Texas-chartered credit unions. The operations of the Department are funded primarily by semiannual assessments levied on credit unions. The Department receives no state monies from the General Revenue Fund.

As of December 31, 2022, the Department was responsible for regulating and supervising 171 credit unions. Based on the year-end call reports, Texas-chartered credit unions held \$57.0 billion in assets or approximately 40 percent of total aggregate credit union assets in Texas.

GOALS AND OUTCOMES

The Credit Union Commission has established four strategic goals to guide the operations of the Department and to contribute to the achievement of its mission and performance goals. The Commission's goals are:

1. to ensure a safe and sound state credit union industry;
2. to provide a flexible regulatory framework that enables credit unions to provide a full competitive array of financial services;
3. to safeguard the interest of credit union members; and
4. to develop a professional and motivated staff that provides quality service to the citizens of Texas and supports achievement of the Department's statutory mission.

The Department works to meet these goals by, among other things, detecting violations and potential problems or issues in the Texas credit union system and ensuring that the violations are addressed; crafting rules that strengthen corporate governance and operations; ensuring credit union members are treated fairly; and making sure that the Department's human capital strategies, information technology initiatives, and resources are appropriately aligned to achieve the Department's mission, goals, and outcomes.

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Like other regulatory agencies, the Department has found it challenging to develop measures that accurately depict the outcomes of the agency's activities. In many instances, the effects of the agency's efforts can only be indirectly assessed. The Department intends to continue refining its work in this area as it gains more experience in integrating its budget and performance functions. As part of this effort, the Department will continue to assess alternatives for measuring outcomes that help the public gauge the Department's progress in achieving its mission, as well as assisting staff in meeting their objectives.

Strategic Goal 1: To Ensure a Safe and Sound Credit Union Industry

Strategic Objective 1.1: The Department anticipates, understands, addresses, and communicates risk to credit unions. The Department seeks to fulfill this objective by:

1. establishing the appropriate regulatory framework;
2. being a prudent steward of Department resources;
3. ensuring risk-based supervision is properly implemented and focused on material risks to the industry and individual credit unions;
4. identifying emerging risk areas related to industry and individual credit unions;
5. complying with the examination requirements of [7 TAC Section 97.105](#);
6. resolving problem credit unions in a timely fashion, effectively, and when possible, without loss to the share insurance provider; and
7. taking prompt and effective enforcement actions when warranted.

Strategic Objective 1.2: The Department cooperates with other regulatory authorities on common interests. The Department seeks to fulfill this objective by:

1. working effectively with the NCUA, private share insurance providers, and other state regulators to identify and address risks and emerging issues; and
2. implementing and developing new coordination and collaboration agreements with NCUA, private share insurance providers, and other applicable state regulators regarding supervisory activities performed in credit unions and information exchange.

Strategic Objective 1.3: Supervisory methods and analytical tools keep pace with industry changes and appropriately support the broader mission of the Department. The Department seeks to fulfill this objective by:

1. utilizing analytical tools and reports to effectively use the data collected from credit unions to foster informed decision making for supervisory operations and policy;
2. deploying supervisory technology solutions to enhance data quality and provide user-friendly examiner access to key credit union and industry information; and
3. Providing transparency through the Department's reporting.

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Key Performance Measures

- Percentage of credit unions receiving regular examination annually
 - Target for FY 2024: **75%**
- Percentage of applications approved or denied within 60 days
 - Target for FY 2024: **100%**
- Number of state-chartered credit unions
- Number of regular examinations performed
- Percentage of credit unions with composite CAMEL ratings of 1 or 2
 - Target for FY 2024: **85%**
- Percentage of assets held in credit unions with CAMEL ratings of 1 or 2
 - Target for FY 2024: **95%**

Internal Measures

- Number of follow-up contacts made
- Number of enforcement actions issued
- Percentage of credit unions that are “Well Capitalized” as defined by federal statute
 - Target for FY 2024: **95%**
- Percentage of reports mailed to credit unions within 25 days
 - Target for FY 2024: **98%**
- Percentage of total available work time utilized to conduct both regular and remedial examination work
 - Target for FY 2024: **65%**
- Average Cost per Credit Union Examination
- Assets Examined per Examiner Day
 - Target for FY 2024: **\$16.8 million***
- Average time to complete analysis of quarterly financial data
 - Target for FY 2024: **within 40 days after the submittal deadline for the most recent 5300 Call Report**

*Same as FY23 target which was based on FYE22 results. Will be amended for FY24, based upon 95% of actual level realized for FYE23.

Strategic Goal 2: To Provide a Flexible Legal and Regulatory Framework that Enables Credit Unions to Provide a Competitive Array of Financial Services

Strategic Objective 2.1: Each Commission rule is current, clearly written, and necessary for an effective supervisory process. The Department seeks to fulfill this objective by:

1. drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current conditions;

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2. conducting the mandatory rule review in accordance with Commission's approved plan; and
3. implementing rulemaking through successful collaboration and consultation with interested parties.

Strategic Objective 2.2: The Department supports credit union efforts to remain competitive, consistent with safety and soundness. The Department seeks to fulfill this objective by:

1. supporting the continued recognition of the attributes of the state credit union charter through appropriate opinions and rules;
2. developing and modernizing attributes of the credit union charter and the role and status of the industry;
3. enhancing communication with NCUA and other state regulators to facilitate better coordination on issues affecting credit unions; and
4. communicating attributes of the state charter within and outside the Department.

Strategic Objective 2.3: Application procedures are efficient and consistent with safety and soundness. The Department seeks to fulfill this objective by:

1. providing a standardized application package;
2. establishing policies and procedures that provide clear and comprehensive guidance;
3. implementing and maintaining processes for prompt screening of applications; and
4. enhancing existing technology solutions that support effective application operations.

Key Performance Measures

- Percentage of rule changes provided to credit unions within 60 days after adoption
 - Target FY 2024: **100%**

Internal Measures

- Number of new rules adopted
- Number of rules amended
- Number of rules re-adopted without change
- Number of applications processed
- Number of requests for interpretations/opinions of Act and Rules
- Number of contested cases referred to SOAH
- Number of Public Information Act requests processed
- Number of public forums in which Department participates
- Total Assets in state-chartered credit unions

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- Percentage increase in total aggregate credit union assets
- Percentage of interpretations/opinions issued within 30 days
 - Target FY 2024: **100%**

Strategic Goal 3: Safeguard the Interest of Credit Union Members

Strategic Objective 3.1: All credit union members have reasonable access to credit union services and are treated fairly and lawfully. The Department seeks to fulfill this objective by:

1. reinforcing the importance of fair and honest treatment of credit union members through appropriate supervisory and enforcement action;
2. expanding the agency's role in resolving and/or mediating member complaints handled by the Department;
3. strengthening role in addressing member privacy, information security, and identity theft; and
4. enhancing the Department's consumer compliance examination program.

Strategic Objective 3.2: Credit unions are involved in providing financial services in underserved communities within this State. The Department seeks to fulfill this objective by:

1. supporting the efforts of credit unions to expand their fields of membership to include underserved and low income communities;
2. facilitating the process for credit unions to obtain a low-income designation from NCUA; and
3. participating in financial literacy efforts by the industry and other agencies.

Key Performance Measure

- Percentage of credit unions providing services to low income or underserved populations

Internal Measures

- Number of complaints processed
- Percentage of complaints responded to within 40 days*
 - Target FY 2024: **95%**

*Due to increasing level of complexity in dealing with member complaints, we are recommending this performance measure be increased from 30 to 40 days.

Strategic Goal 4: Develop a Professional and Motivated Staff that Provides Quality Service and Supports Achievement of the Department's Statutory Mission.

Strategic Objective 4.1: The Department maintains a competent, highly motivated, and diverse workforce in a fair and inclusive work environment. The Department seeks to fulfill this objective by:

1. maintaining a comprehensive Equal Employment and Workforce Diversity Plan;
2. executing an aggressive recruiting and comprehensive training strategy for new entry-level examiners;
3. developing proactive initiatives focused on the retention of employees, including mentoring, employee feedback, incentives, and recognition programs;
4. creating a leadership development program to support and enhance management succession; and
5. implementing an external hiring strategy to augment specialized skills to enhance the Department's supervision of complex credit unions.

Strategic Objective 4.2: The Department is an efficient, effective, and ethical organization. The Department seeks to fulfill this objective by:

1. ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework;
2. ensuring compliance with the rules, policies and procedures for ethical conduct by its employees;
3. ensuring reliable, secure, modern information technology systems are in place in support of an environment that meets the Department's mission, goals, and objectives; and
4. leveraging technology, with particular focus on information management initiatives, such as records and knowledge management.

Internal Measures

- Percentage of exam related travel cost reduced by remote work
 - Target FY 2024: **20%**

Strategic Objective 4.3: The Department's resource decisions and operations reflect sound financial, security, and risk management principles. The Department seeks to fulfill this objective by:

1. implementing security controls to mitigate risk and to protect confidential information;
2. improving contingency planning for business continuity, including information technology recovery, compliance with Homeland Security requirements, and crisis management strategies; and
3. achieving reliable, accurate and timely financial resources management information.

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Internal Measures

- Annual examiner turnover rate
 - Target FY 2024: **16%**
- Average regulated assets per examiner (billions)
 - Target FY 2024: **\$3.0 billion***
- Number of days of formal training attended by staff
- Number of purchases made from HUB vendors
- Percentage of purchases made from HUB vendors
 - Target FY 2024: **Professional Services - 23.7%; Other Services - 26.0%; and Commodities - 21.1%**
- Percentage of credit unions indicating quality service annually
 - Target FY 2024: **90%**
- Staffing level
 - Target FY 2024: **95%**
- Number of jobs fairs attended
 - Target FY 2024: **2**
- Turnover ratio (excluding retirements)
 - Target FY 2024: **Less than 15%**
- Accreditation by NASCUS Maintained in Good Standing
 - Target FY 2024: **Yes**
- Total Department costs relative to every \$100,000 in assets regulated
 - Target FY 2024: **\$6.94****

*Same as FY23 which was based on regulated assets as of March 31, 2023, divided by 19 examiners (fully staffed). As of May 31, 2023, this YTD figure is \$3.7 billion based on staffing (short 2 examiners) and regulated assets; an increase of approximately 79 percent from the FYE17 figure of \$2.08 billion. Once the two open field examiner positions are filled, this will reduce the existing level to the target level of \$3.0 billion, which supports the proposed FY24 target.

**Target based on FY22 cost of \$6.61/\$100k of regulated assets times 105% during the fiscal year. The high level of remote work has resulted in restricted travel and greatly reduced costs. It is anticipated more exams will be conducted on-site moving forward and examiner travel costs will increase. The FY23 costs have not yet been computed as we have not reached the FYE.

DEPARTMENT BUDGET – FY 2024		
REVENUE:		
Operating Fees		\$5,556,986 ¹
Examination Fees		
Application Fees		
Penalties		
Refund/Reimbursement of Expenditures		
Other		
TOTAL REVENUE		\$5,556,986
EXPENDITURES:		
Personnel Expenses		
Salaries and Wages	\$3,270,325	
Payroll Related Costs	968,021	
Total Personnel Expenses		\$4,238,346
Travel Expenses		
In State	\$426,372	
Out-of-State	25,000	
Commission	24,000	
Total Travel Expenses		\$475,372
Other Operating Expenses		
Professional Services/Fees	\$430,600	
Materials and Supplies	58,632	
Communications/Utilities	58,214	
Repairs/Maintenance	29,165	
Rentals and Leases	4,900	
Printing and Reproduction	1,000	
Other Expenditures	160,757	
Contingency Reserve Funding (FY22)	100,000	
Total Other Operating Expenses		\$843,268
TOTAL EXPENDITURES		\$5,556,986
CONTINGENCY RESERVE AFTER FY23 FUNDING		
		\$998,750
FULL-TIME-EQUIVALENT POSITIONS (FTEs)		
		35.0

¹ Budgeted operating fees will be set to cover the actual budget approved by the Commission. Any funds more than the prescribed Contingency Fund Reserve aggregate limit as of August 31, 2023, will also be used to reduce the operating fees for Texas credit unions during the fiscal year.

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	CUMULATIVE RESOURCES					
Budget Year	2018	2019	2020	2021	2022	2023*
Authorized FTE	29.5	29.5	30.0	30.0	31.0	33.0
Actual FTE	28.5	29.0	29.0	27.0	27.5	30.5
Budgeted Dollars	\$4,063,453	\$4,260,909	\$4,445,694	\$4,307,682	\$4,894,832	\$5,057,455
Actual Dollars Spent	\$3,874,028	\$3,903,856	\$3,898,009	\$3,524,092	\$3,895,886	TBD

*As of May 31, 2023.

DEPARTMENT'S FY 2023 BUDGET FINANCIAL PERFORMANCE

E. Discussion and Consideration of the Department's FY 2023 Budget and Financial Performance.

BACKGROUND: In 2022 the Commission adopted a strategic plan for Fiscal Years 2023-2027. The \$5.0 million FY 2023 Budget approved by the Commission in June 2022 includes the maintenance and operating budget and capital improvement budget in support of the Strategic Plan.

The following report highlights the Department's final FY 2023 financial results for the fiscal year 2023. At the end of August 2023, total expenditures were \$737,429 or approximately 14.7 percent less than budgeted projections. Aggregate expenses for each major expense category ended the year below budget estimates. Due to personnel vacancies, total personnel expenses accounted for 57 percent of the budget variance, or \$419,821. Other below budget items include travel related savings and Professional Services and Fees.

Credit Union Department
BY 2023 Budget Analysis
For the Period Ended 8/31/23 Final

	BY 2023 Budget	BY 2023 YTD Budgeted	BY 2023 YTD Actual	Budget Variance	Percent of YTD Budget
REVENUES:					
Operating Income					
Operating Fees	\$5,057,455	\$5,057,455	\$4,523,760	(\$533,695)	89%
Out-of-State Branch Fees	\$0	\$0	\$9,500	\$9,500	100%
Examination Fees	\$0	\$0	\$0	\$0	
Application Fees	\$0	\$0	\$0	\$0	
Penalties	\$0	\$0	\$1,125	\$1,125	
Other	(\$51,250)	(\$51,250)	(\$51,250)	\$0	
Operating Income Subtotal	\$5,006,205	\$5,006,205	\$4,483,135	(\$523,070)	90%
Interest Income (Operating Acct)	\$0	\$0	\$120,884	\$120,884	
Interest Income (Contingency Acct)	\$0	\$0	\$44,348	\$44,348	
TOTAL REVENUES - FUNDS AVAILABLE TO COVER EXPENDITURES	\$5,006,205	\$5,006,205	\$4,648,366	(\$357,839)	93%
EXPENDITURES:					
Personnel Expenses:					
Salaries and Wages	\$3,025,772	\$3,025,772	\$2,718,471	\$307,301	90%
Employee Benefits	\$951,369	\$951,369	\$838,849	\$112,520	88%
Total Personnel Expenses	\$3,977,141	\$3,977,141	\$3,557,320	\$419,821	89%
Travel Expenses:					
In State					
Examinations			\$210,686		
Training/Conferences			\$48,495		
Meetings			\$1,633		
Public Forums			\$0		
Other			\$22,101		
Total In-State	\$412,381	\$412,381	\$282,914	\$129,467	69%
Out-of-State	\$30,000	\$30,000	\$1,187	\$28,813	4%
Commission	\$26,500	\$26,500	\$10,698	\$15,802	40%
Total Travel Expenses	\$468,881	\$468,881	\$294,799	\$174,082	63%
Other Operating Expenses:					
Communication/Utilities	\$52,475	\$52,475	\$57,832	(\$5,356)	110%
Professional Services/Fees	\$248,450	\$248,450	\$114,865	\$133,585	46%
Supplies/Materials	\$59,470	\$59,470	\$65,527	(\$6,057)	110%
Printing and Reproduction	\$2,755	\$2,755	\$314	\$2,442	11%
Repairs/Maintenance	\$45,165	\$45,165	\$13,370	\$31,795	30%
Rentals and Leases	\$5,500	\$5,500	\$3,880	\$1,620	71%
Other Operating	\$146,369	\$146,369	\$160,870	(\$14,501)	110%
Total Other Operating Expenses	\$560,184	\$560,184	\$416,658	\$143,527	74%
TOTAL EXPENDITURES	\$5,006,206	\$5,006,206	\$4,268,776	\$737,430	85%
REMAINING FUNDS TO COVER EXPENDITURES (Actuals)			\$379,590		

STATUS OF THE STATE CREDIT UNION SYSTEM

F. Status of the State Credit Union System.

BACKGROUND: The Texas economy continues to withstand economic pressures and perform well. However, inflationary pressures have resulted in higher interest rates and labor costs, and slowing job growth and manufacturing, resulting in the potential for a noticeable slowdown in economic growth in Texas. According to analysts with the Federal Reserve Bank, during the first half of 2023, Texas employment rose at an annualized rate of 3.2 percent, exceeding the national average of 2.2 percent. Economic expansion is anticipated to continue through year-end, but at a slower pace than the first half of the year.

The U.S. Bureau of Labor Statistics (BLS) reports the unemployment rate for Texas was 4.1 percent at month-end September 2023, unchanged from May 2023. The Texas rate is slightly higher than the national average of 3.8 percent. The BLS also reported that Texas ended September 2023 with approximately 14,049,400 total jobs, representing an increase for the year of 435,800 or 3.2 percent. The number of new jobs in Texas for 2023 is the highest of any state and the percentage increase is the 2nd highest of any state in the country.

The financial performance of Texas credit unions for the first six months of 2023 remains good. Capital levels for the Texas industry continue to grow, and earnings and asset quality ratios are being maintained at some of their strongest levels over the last seven years. The solid financial performance for Texas state-chartered credit unions is depicted below:

Key Ratio	2017	2018	2019	2020	2021	2022	06-2023
Net Worth/Total Assets	10.30	10.82	11.10	10.36	10.43	10.86	11.12
Delinq. Loans to Tot. Loans	0.89	0.75	0.71	0.75	0.52	0.61	0.60
Net Charge-Offs to Avg. Lns	0.75	0.68	0.69	0.57	0.36	0.37	0.46
Return on Average Assets	0.72	0.88	0.88	0.70	1.08	0.96	0.74

Earnings performance data for Texas credit unions reflects favorable levels of net income, and when coupled with controlled asset growth and slow deposit growth, resulted in a strengthening of net worth ratios. As a result of the dramatic increase in interest rates the past year, deposit growth slowed considerably, as low cost deposits left credit unions in search of higher rates. It is important to note that some of our regulated credit unions have encountered asset liability management problems within their balance sheets, including tightened liquidity and high interest rate risk. Generally, these trends have resulted from the

placement of significant concentrations of previously liquid funds into longer term loans and investments. The Department is working with the operating management and officials of such credit unions as problems are identified to improve the asset liability management structure of their balance sheets.

While the performance outlook for the Texas industry still appears satisfactory, it remains essential for credit unions to adapt to the ever-changing economic trends (i.e., inflation, higher cost of funds, etc.), and the increasing political and warfare concerns to safeguard the financial interests of Texas credit unions and its members.

INDUSTRY STATUS: As of **June 30, 2023**, there were **169** state-chartered credit unions in Texas, down five charters from one year ago. Total assets in these credit unions are **\$57.49 billion**, an increase of **\$0.50 billion** since **December 31, 2022**, for an annualized growth rate of **0.9 percent**. The average net worth ratio for all Texas chartered credit unions is **11.12 percent**, a significant increase from **10.86 percent** at year-end 2022.

Loans for Texas chartered credit unions totaled **\$42.32 billion** as of **June 30, 2023**. This is an increase of **\$0.66 billion** since **June 30, 2022**, for an annualized growth rate of **1.6 percent**.

Shares for Texas chartered credit unions totaled **\$51.80 billion** as of **June 30, 2023**. This is a slight increase of **\$0.35 billion**, or **0.7 percent** since **December 31, 2022**.

Texas chartered credit unions average loan delinquency ratio is **0.60 percent** as of **June 30, 2023**, which is consistent with the year-end 2022 level of **0.61 percent**.

At **June 30, 2023**, **169** state-chartered credit unions reported aggregate net income of **\$210.89 million**; down from **\$281.14 million** for the same six-month period in 2022. Overall, the earnings performance of Texas chartered credit unions remains strong, as reflected by their Return on Average Assets Ratio of **0.74 percent**. However, the reduction in total earnings over the last twelve months has been driven by increased credit loss expenses, increases in cost of funds tied to higher interest rates, and higher operating expenses.

PROBLEM INSTITUTIONS: As of **June 30, 2023**, there were **20** credit unions assigned a CAMELS rating of 3 or higher, compared to **23** credit unions at **June 30, 2022**. Credit unions in this category are monitored through a combination of off-site monitoring, regular on-site or remote contacts, and ongoing reviews for compliance with outstanding Documents of Resolution and other supervisory agreements or orders.

ENFORCEMENT ISSUES: The Department had the following administrative sanctions outstanding as of **June 30, 2023**:

Dividend Restrictions	0
LUAs	0
Determination Letters	1
Conservatorships	0
Cease and Desist	3

ADMINISTRATIVE PENALTIES AND LATE FEES

G. Discussion and Adoption of the Proposed Matrix for Administrative Penalties and Late Fees.

BACKGROUND - In its report dated August of 2020 the Sunset Advisory Commission directed the Department to develop a penalty matrix. Specifically, they found:

“No penalty matrix. Agencies should establish a schedule of sanctions to help ensure that disciplinary actions relate appropriately to the nature and seriousness of the offense and are applied consistently. These guidelines, often called a penalty matrix, should also inform the determination of administrative penalty levels. The department's statute explicitly defines standards for issuing cease and desist, conservatorship, and liquidation orders, and department policy outlines differences between formal and informal enforcement actions. However, no such guidance exists for administrative penalties the commissioner can issue against credit unions or individuals for noncompliance with a final cease and desist order or order to remove a credit union employee or board member.¹¹ Additionally, neither statute nor rule provide guidance for the commissioner's authority to waive fees for late submission of call reports or operating fees. ¹² A penalty matrix would clearly guide the commissioner's application of sanctions to ensure consistency and promote transparency.”

And issued the following recommendation:

“This recommendation would ensure the department has clear standards to assess administrative penalties and late fees in a fair and consistent manner.

The department should develop a matrix with the following:

- Categories of potential violations by credit unions and individuals.
- Thresholds for department action.
- Standard penalty and late fee amounts (sic) for each type of violation, and factors to consider for increasing or decreasing them, such as past compliance history.
- Any considerations the commissioner should take into account when determining sanctions, including administrative penalty amounts.

The department should identify types of mitigating and aggravating factors to inform but not dictate enforcement actions, ensure the matrix sets appropriate fees and penalty amounts for different types of violations based on their severity, and provide for increased penalties for repeat violations.”

An expected date of Commission Action was approval of such a matrix at a public meeting after December 1, 2021.

A review has been conducted of all existing civil money and criminal penalties under the Credit Union Act and Rules for Credit Unions. This has been memorialized in a table consistent with the Commission’s recommendations.

RECOMMENDED ACTION: The Department recommends that the Commission approve the Proposed Penalty Matrix.

RECOMMENDED MOTION: I move that the Commission approve the Penalty Matrix as proposed by the Department.

Categories of Violations for Potential Enforcement Actions	TX Fin. Code (TFC) --TX Admin. (TAC)	Category	Std. Penalty	Statute Language	Additional Considerations
Operating Fee Late Payment	TFC § 15.4044 7 TAC §97.113	Late Fee	10% of the amount due for each 30 day period fee is late. (31 days late is 10%, 61 days late is 20%)	(1) Each credit union authorized to do business under the Act shall remit to the department an annual operating fee. The fee shall be paid in semi-annual installments, billed effective September 1 and March 1 of each year. The final installment may be adjusted as provided by subsection (d) of this section. Installments received after September 30 or March 30 of each year will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.	In determining the amount of the penalty or waiver of the penalty, the commissioner shall consider the seriousness of the violation, the credit union's history of violations, the affect of the fee on the financial condition of the credit union, other extenuating conditions affecting key staff of the credit union and the credit union's good faith attempt to comply with this provisions.
Credit Union Conversion Fee	7 TAC §97.113(g)(3)	Late Fee	10% of the amount due for each 30 day period fee is late. (31 days late is 10%, 61 days late is 20%)	(3) Any fee received more than 30 days after the issuance of a charter will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.	In determining the amount of the penalty or waiver of the penalty, the commissioner shall consider the seriousness of the violation, the credit union's history of violations, the affect of the fee on the financial condition of the credit union, other extenuating conditions affecting key staff of the credit union and the credit union's good faith attempt to comply with this provisions.

Categories of Violations for Potential Enforcement Actions	TX Fin. Code (TFC) --TX Admin. (TAC)	Category	Std. Penalty	Statute Language	Additional Considerations
Late Filing of Quarterly Call Report	TFC § 122.101 7 TAC §91.209(a)	Late Fee	\$100 for each day or fraction of a day in arrears.	Each credit union shall prepare and submit, in a manner prescribed by the commissioner, a quarterly financial and statistical report. Unless the commissioner orders otherwise, call reports (Form 5300) timely filed with the National Credit Union Administration will comply with the reporting requirements of this subsection. If a credit union fails to file the quarterly report on time, the commissioner may charge the credit union a penalty of \$100 for each day or fraction of a day the report is in arrears.	In determining the amount of the penalty or waiver of the penalty, the commissioner shall consider whether or not NCUA has assessed a penalty for the same late filing or adjusted pursuant to §91.209(f), the seriousness of the violation, the credit union's history of violations, the affect of the fee on the financial condition of the credit union, other extenuating conditions affecting key staff of the credit union and the credit union's good faith attempt to comply with this provisions.
False or misleading information on Call Report.	TFC § 122.254 7 TAC §91.209	Criminal Penalty	Third Degree Felony	(b) Any credit union that makes, files, or submits a false or misleading financial and statistical report required by subsection (a) of this section (call report), is subject to an enforcement action pursuant to the Finance Code, Chapter 122, Subchapter F.	It does not appear the Commissioner can waive a criminal penalty.
False answer or entry on Statement or Record in connection with exam or investigation	TFC § 122.254	Criminal Penalty	Third Degree Felony	(a) A person commits an offense if the person, knowingly and with the intent to deceive:(1) makes a false entry on a record, report, or statement of a credit union; or (2) in connection with an examination or investigation of a credit union by the commissioner, a deputy commissioner, or the department's authorized examiner, exhibits a false paper, instrument, or security or gives under oath a false answer to a question directly related to the examination or investigation asked the person by the commissioner, the deputy commissioner, or the department's authorized examiner.	Waiver Not Applicable

Categories of Violations for Potential Enforcement Actions	TX Fin. Code (TFC) --TX Admin. (TAC)	Category	Std. Penalty	Statute Language	Additional Considerations
Destruction of credit union record to conceal a fact from department	TFC § 122.254	Criminal Penalty	Third Degree Felony	(b) A person commits an offense if the person knowingly removes, destroys, or conceals a record of the credit union for the purpose of concealing a fact or information from the commissioner, a deputy commissioner, or the department's authorized examiner.	Waiver Not Applicable
Late filing of supplemental report required by department.	7 TAC §91.209(c)	Late Fee	\$50.00 a day	(c) A credit union shall prepare and forward to the Department any supplemental report or other document that the Commissioner may, from time to time require, and must comply with all instructions relating to completing and submitting the supplemental report or document. For the purposes of this section, the Commissioner's request may be directed to all credit unions or to a group of credit unions affected by the same or similar issue, shall be in writing, and must specifically advise the credit union that the provisions of this section apply to the request. If a credit union fails to file a supplemental report or provide a requested document within the timeframe specified in the instruction, after notice of non-receipt, the commissioner may levy a penalty of \$50 for each day or fraction of a day such report or document is in arrears.	In determining the amount of the penalty or waiver of the penalty, the commissioner shall consider the seriousness of the violation, the credit union's history of violations, the affect of the fee on the financial condition of the credit union, other extenuating conditions affecting key staff of the credit union and the credit union's good faith attempt to comply with this provisions.
Failure to file a report or information requested by the Department	7 TAC §91.209(d) 7 TAC §97.113 (e)	Examination Fee	\$50.00 per hour exam time	(d) If a credit union fails to file any report or provide the requested information within the specified time, the commissioner, or any person designated by the commissioner, may examine the books, accounts, and records of the credit union, prepare the report or gather the information, and charge the credit union a supplemental examination fee as prescribed in §97.113 of this title (relating to Fees and Charges). The credit union shall pay the fee to the department within thirty days of the assessment.	In determining the amount of the penalty or waiver of the penalty, the commissioner shall consider the seriousness of the violation, the credit union's history of violations, the affect of the fee on the financial condition of the credit union, other extenuating conditions affecting key staff of the credit union and the credit union's good faith attempt to comply with this provisions.
Defamation	TFC § 122.251	Criminal Penalty	Third Degree Felony	If a person knowingly makes or circulates a false statement that is derogatory to the financial condition of a credit union with an intent to injure the credit union	Waiver Not Applicable

Categories of Violations for Potential Enforcement Actions	TX Fin. Code (TFC) --TX Admin. (TAC)	Category	Std. Penalty	Statute Language	Additional Considerations
Consideration for a Loan, Investment or Purchase	TFC § 122.252	Criminal Penalty	Class A Misdemeanor	If a director, committee member, officer or employee of a credit union and knowingly demands or receives consideration for credit union's making a specific loan or investment or purchasing an asset.	Waiver Not Applicable
Loan to a Nonmember	TFC § 122.253	Criminal Penalty	Class B misdemeanor; person will be primarily liable to the credit union for the amount illegally loaned	If a director, honorary director, advisory director, committee member, officer or employee of a credit union and knowingly permits a loan to be made to a nonmember or participates in a loan to a nonmember	Waiver Not Applicable
Misconduct	TFC § 122.255	Order	Cease and Desist Order; Removal Order; Order of Prohibition	The commissioner may determine that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee, has:(1)violated this subtitle, a rule adopted under this subtitle, or another law applicable to a credit union;(2)violated or refused to comply with a final order of the commissioner or commission;(3)wilfully neglected to perform an official or legal duty or wilfully committed a breach of trust or fiduciary duty;(4)committed a fraudulent or questionable practice in the conduct of the credit union's business that endangers the credit union's reputation or threatens its solvency;(5)refused to submit to examination under oath or to permit examination of the credit union's records and affairs by the commissioner or the commissioner's representative;(6)failed or refused to authorize and direct another person to permit the commissioner or the commissioner's representative to examine the credit union's records in the other person's custody after the commissioner has requested the authorization of and direction to the other person;(7)conducted the credit union's business in an unsafe, unauthorized, or unlawful manner;(8)concealed, destroyed, removed, or falsified a record related to the credit union's business and affairs;(9)transacted business while the credit union was in an unsafe or unsound condition;(10)violated a condition of the credit union's articles of incorporation or of a written agreement with the commissioner or the commission; or(11)committed a criminal act that is a substantial detriment to the reputation and conduct of the credit union's business	Waiver Not Applicable

Categories of Violations for Potential Enforcement Actions	TX Fin. Code (TFC) --TX Admin. (TAC)	Category	Std. Penalty	Statute Language	Additional Considerations
Failure to comply with order related to misconduct	TFC 122.260	Administrative Penalty	not less than \$100 or more than \$10,000 for each day inviolation of the order	If a credit union or other person designated in a final order under this subchapter does not comply with the order, the commissioner, after giving notice, may assess an administrative penalty against the credit union, the designated person, or both, in an amount of not less than \$100 or more than \$10,000 each for each day of the violation of the order.	In determining the amount of the penalty or waiver of the penalty, the commissioner shall consider the seriousness of the violation, the credit union's history of violations, the affect of the fee on the financial condition of the credit union, other extenuating conditions affecting key staff of the credit union and the credit union's good faith attempt to comply with this provisions.
Failure to pay penalty assessed related to misconduct	TFC 122.260 (c) and (d)	Injunction and attorney fees.	Costs and attorney fees	(c)The commissioner may bring suit for injunction or to collect the administrative penalty in a district court of Travis County. In the suit, a certificate by the commissioner showing a failure to pay an administrative penalty is prima facie evidence of: the imposition of the penalty or the delinquency of the stated penalty amount; and compliance by the department with the law relating to the computation and imposition of the penalty. (d)The attorney general is entitled to recover reasonable attorney's fees from the credit union or the designated person, or both, if the attorney general prevails in a judicial action necessary for collection of the administrative penalty.	Waiver Not Applicable

Categories of Violations for Potential Enforcement Actions	TX Fin. Code (TFC) --TX Admin. (TAC)	Category	Std. Penalty	Statute Language	Additional Considerations
Cease and Desist related to other statutes	TFC 122.2575	Administrative Orders	Cease and Desist Order; Removal Order; Order of Prohibition	If it appears to the commissioner that a person who is not authorized to engage in business under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.) is violating this subtitle, a rule adopted under this subtitle, or another state statute or rule relating to the regulation of credit unions, the commissioner may issue without notice and hearing an order to cease and desist from continuing a particular action to enforce compliance with the applicable state statute or rule relating to the regulation of credit unions. The order must contain a reasonably detailed statement of the fact on which the order is made.	Waiver Not Applicable

EQUAL EMPLOYMENT AND WORKFORCE PLAN

H. Adoption of the Department's Equal Employment and Workforce Plan.

BACKGROUND: Finance Code Section 15.313 requires the Commission to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The Commission originally approved the plan on October 10, 1997, and last approved the plan in November 2019. The policy statement must be approved annually. Accordingly, the policy is presented for the Commission's consideration and approval.

RECOMMENDED ACTION: The Department recommends that the Commission approve the Plan as presented.

RECOMMENDED MOTION: I move that the Commission adopt the Department's Equal Employment and Workforce Plan as recommended by staff.



**STATE OF TEXAS
CREDIT UNION DEPARTMENT**

**EQUAL EMPLOYMENT AND
WORKFORCE PLAN**

Approved by Commission on November 3, 2017

Readopted by Commission on October 15, 2018

Approved by Commission on November 1, 2019

Readopted by Commission on March 5, 2021

Approved by Commission on _____

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PREFACE

This Equal Employment and Workforce Plan has been developed to formalize the Credit Union Commission's and the Credit Union Department's commitment to equal employment opportunity. The plan is designed to assure that the Department's personnel policies and practices promote equal employment opportunities in the workplace.

The Department recognizes that the full and equal participation of minorities, women, and disabled persons in all employment opportunities is a necessary component of any effective equal employment program. To achieve the goals in practical and meaningful terms, the Department has established objectives and timetables, and has assigned specific responsibilities to Commission members and Department staff.

The Department's Equal Employment and Workforce Plan is intended to conform in good faith with Title VII of the Civil Rights Act of 1964, codified as amended in scattered sections of 2 U.S.C., 28 U.S.C., and 42 U.S.C. the Civil Rights Act of 1991, codified as amended in scattered sections of 42 U.S.C. (Supp. III 1992), the Equal Pay Act of 1963, 29 U.S.C. Chapter 8 § 206(d), Title VII of the Civil Rights Act of the Rehabilitation Act of 1973, codified as amended in scattered sections of the 29 U.S.C and 31-41c U.S.C., the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2013), the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101-12213 (2013), and the Texas Labor Code, as well as the guidelines adopted by the Equal Employment Opportunity Commission on October 17, 1989 and Presidential Executive Order 11246.

FOREWORD

The Department's Equal Employment and Workforce Plan has been developed in accordance with the principles set forth in the Equal Employment Opportunity Coordinating Council's Affirmative Action Policy Statement. These principles outline the intent and goals of the Department's philosophy:

Equal Opportunity is the law of the land. In the public sector of our society, this means that all persons, regardless of race, color, religion, sex, national origin, age or disability, shall have equal access to positions in public service limited only by ability to do the job.

...vigorous enforcement of the laws against discrimination is essential. But equally, and perhaps even more important, are affirmative, voluntary efforts to assure that positions in the public service are genuinely and equally accessible to qualified persons, without regard to their sex, racial or ethnic characteristics. Without such efforts, Equal Employment Opportunity is no more than a wish...

CREDIT UNION DEPARTMENT EQUAL EMPLOYMENT AND WORKFORCE PLAN

Policy Statement

It shall be the public policy of the Credit Union Department not to discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, gender identity, sexual orientation, pregnancy, status as a parent, age, disability (physical or mental) status, family medical history or genetic information, political affiliation, military service or other non-merit factors ..

The Department is committed to the principles of equal employment opportunity law and the spirit of workplace diversity. This plan has been prepared to ensure that the Department's equal employment policies shall be properly implemented and to ensure that no artificial barriers shall be intentionally or otherwise created to deny applicants for employment or employees of the Department equal employment opportunities. The plan is available in the Department's office for review by employees and applicants for employment. The plan is available to the general public on request.

The Department is fully committed to protecting the rights of all current and prospective employees by ensuring that these individuals are being properly treated and provided with employment and advancement opportunities based solely on everyone's qualifications and performance, without regard to his or her race, color, religion, national origin, sex, age or disability. These rights are promulgated in the statutes listed in the preface.

Supervisors are required to ensure that all employees and prospective employees are afforded equal employment opportunities.

Advancement within the Department's organizational structure will be attained by meritorious performance.

The supervisors of the Credit Union Department shall not discriminate regarding employment opportunities. They must work together and communicate freely with each other to ensure discrimination is not fostered within the Department.

Responsibilities

The Department's Equal Employment and Workforce Plan has the support of the Commission members, Commissioner, and other management or supervisory personnel. Specific responsibilities have been assigned and delegated to the Commission and management personnel to ensure that the necessary authority and power is available to implement the provisions of the plan.

The Commission is responsible for establishing policies and monitoring the implementation of the plan through periodic reports submitted by the Commissioner. The Commission, through

Department staff, shall review the plan annually for purposes of revision or modification. The staff shall review the workforce analysis and personnel policies, procedures, and practices and shall include recruitment, selection, promotions, job descriptions, classifications, compensation, discipline, or other terms and conditions affecting the equal employment opportunities of applicants for employment or employees. Any changes to the plan resulting from the annual review will be submitted to the Commission for approval.

The Deputy Commissioner shall be designated as the representative of the Department with the authority for execution of the plan. It shall be the responsibility of the Deputy Commissioner to ensure that compliance with the Commission's policies is implemented in an efficient and effective manner.

Goals

- I. To ensure objectivity, consistency, uniformity and job relatedness through design and implementation of appropriate personnel policies, procedures and practices which affect the equal employment opportunities of the Department's employees and applicants for employment.
- II. To document a diverse workforce through the establishment of a monitoring and reporting system.

Actions to Achieve Goals

- I. Policy Dissemination
 - A. The Department shall use the communication network of the Texas Workforce Commission to provide notice of the Department's equal employment policy. In notifications posted for vacant positions, including posting on the Department's website, the Department shall include information that it is an equal employment opportunity employer.
 - B. As part of new employee in-processing, each new employee shall receive a copy of the Department's Equal Employment and Workforce Plan and its Equal Employment Policy.
- II. Recruitment
 - A. To the extent possible, the Department shall utilize a wide range of recruiting sources to secure the maximum number of qualified minorities, female, and disabled applicants for available positions within all classifications. Such sources shall include, as appropriate, statewide minority, female and disability associated organizations, educational institutions, newspapers, and the Texas Workforce Commission. The Department shall continue to expand and update its list of such recruiting sources including appropriate contact persons.

- B. Notices of vacant positions shall be posted in accordance with the regular ten (10) working day posting rule. Where vacancies occur in classifications that have been identified as being underutilized, the Department shall place emphasis on recruiting from minority, female, and disabled applicant sources, by distributing position notices to all appropriate recruitment sources identified in II.A.
- C. An Applicant Flow Record shall be maintained to determine the mix of candidates applying for vacant positions according to race, national origin, sex, and disability. This information shall be incorporated into the Agency Application Log.

III. Selection Procedures

The U. S. Equal Employment Opportunity Commission, the U. S. Civil Service Commission, the Department of Labor and the Department of Justice have issued Uniform Guidelines on Employee Selection Procedures. These guidelines address all phases of an employer's selection process and provide suggested requirements that, if adhered to, will greatly reduce an employer's susceptibility to charges of employment discrimination that involve the selection process.

- A. Position audits shall be conducted on a continuing basis (within resources available) to ensure that current position descriptions accurately reflect the actual duties, tasks, and responsibilities required to successfully perform the job. These audits shall also be used to determine the appropriateness of the minimum qualifications for the positions and to ensure that only valid, job-related qualifications are required.
- B. All testing, and screening procedures shall be reviewed on a continuing basis (within resources available) to ensure their job-relatedness and validity. Information acquired from the position audits shall be used to construct valid, job-related tests and screening procedures.
- C. All employment interviews shall be reviewed for job relatedness. Non-job-related questions and those items that may tend to screen out an ethnic or racial group shall be eliminated. Technical assistance in the construction of interview questions and interviewing procedures shall be given to hiring authorities.
- D. All test scores and interview results shall be maintained for each classification in accordance with the State's record retention schedule. This information is to assess the presence of artificial barriers to equal employment opportunity.

IV. Upward Mobility

- A. Employees shall be encouraged to participate in training or educational opportunities that enhance their skills.
- B. In-service training programs shall be designed and implemented to increase promotion opportunities for employees. On-the-job training and/or cross-training programs shall be developed to expose employees to a broad range of job duties and experiences.

Discipline Procedures

The Department shall institute a progressive discipline system that is linked to specific policies and procedures with which personnel are expected to comply. Such a progressive discipline system will be designed in steps of severity ranging from written warnings to termination. This disciplinary system shall be designed and applied to ensure uniformity and consistency with Department policies prohibiting discrimination.

Appeal and Grievance Procedures

The Department shall provide appeal and grievance procedures designed to resolve complaints of employment discrimination alleged by employees. These procedures shall provide aggrieved employees the opportunity to discuss their problems at several levels.

These procedures shall help protect both the employee and the employer by providing both parties with the opportunity to have their position reviewed and considered by an impartial authority. These procedures shall provide safeguards against all occurrences of discrimination or any other preferential treatment that may adversely affect employees of the Department.

Monitoring Achievement

The Deputy Commissioner shall be responsible for administering and monitoring the implementation of the Department's Equal Employment and Workforce Plan and for identifying any revisions necessary to assure effective application. The Deputy Commissioner shall review such reports as include the following Annual EEO/Diversity Progress Report:

A. Workforce Analysis by Race, National Origin, Sex, and EEO Category

B. Personnel Transactions

The Commissioner shall submit to the Commission, at each regular Commission meeting, a status report which shall include a record of the following personnel transactions: 1) salary report, listed by race, national origin, sex, disability, and experience, 2) employees promoted, listed by race, national origin, sex, disability, and experience; and 5) employees terminated and resigned, listed by race, national origin, sex, and disability.

C. Applicant Flow

The Applicant Flow Report shall include a breakdown of all applicants by race, national origin, sex, disability, and position vacancy. The report, which is part of the Agency Application Log, shall also indicate whether a job offer was made, and the position of the person(s) who made the employment decision.

D. Appeal and Grievance Status

This report shall be submitted to the Commission. It will provide an itemized

statistical summary of the number, status, and issues raised by employee grievances and discrimination complaints. No report is necessary if there have been no grievances or discrimination complaints.

Time Frame for Implementation

The Department shall implement and review the action program previously identified annually.

LITIGATION UPDATE

I. Pending Litigation.

Credit Union Department v. Ken Paxton, Attorney General of Texas, Cause No. D-1-GN-21-007168.

The Credit Union Department is seeking protection from a letter advice ruling by the Attorney General related to an information request under the Public Information Act (PIA).

We anticipate resolution by the end of the year.

RECOMMENDED ACTION: No formal action of the Commission is anticipated.

Amplify Credit Union (Amplify) v. Texas Credit Union Department (Department); SOAH docket 469-23-07265.

Amplify is pursuing administrative appeal of two denials of geographic membership expansion requests by the Department.

A final SOAH hearing set for January 24-25, 2024.

RECOMMENDED ACTION: No formal action of the Commission is anticipated at this time.

Cooperative Teachers Credit Union (CTCU) v. Texas Credit Union Department, (Department), SOAH docket 469-23-07487.

CTCU is pursuing administrative appeal of a modified application approval related to a request to expand its geographic field of membership and the Findings of Fact and Conclusions of Law in the order,

A final SOAH hearing set for February 21, 2024.

RECOMMENDED ACTION: No formal action of the Commission is anticipated at this time.

FUTURE COMMISSION MEETINGS

J. Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for March 8, 2024.

ADJOURNMENT

FUTURE CREDIT UNION COMMISSION MEETING DATES

Friday, March 8, 2024

Friday, July 12, 2024

Friday, November 1, 2024

All regular scheduled meetings will begin at 9:00 a.m. unless notified differently.

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

CREDIT UNION DEPARTMENT

INDUSTRY STATUS

AND

DEPARTMENTAL OPERATION

Credit Union Department

Executive Summary

As of 08/31/23

* Information from call report cycle

ACTIVITY	YTD 2021	YTD 2022	2023 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MOVEMENT PROFILE							
Number of CUs	175	174	172	170	169	169	
Total Assets (Millions)	*54,218	*59,167	*59,838	*56,993	*57,694	*57,494	
APPLICATIONS (Received)							
Charters	0	0	0	0	0	0	0
Foreign Branches	2	0	0	0	0	0	0
Conversions	0	2	0	0	0	0	0
Mergers	3	8	0	1	1	0	2
Bylaws	97	59	22	13	8	10	53
Articles of Incorporation	1	4	3	0	1	1	5
Total	103	73	25	14	10	11	60
EXAMINATION ACTIVITIES							
Regular	80	98	28	23	15	13	79
Joint	64	50	9	11	18	21	59
Remedial	26	38	11	5	11	9	36
Total	170	186	48	39	44	43	174
ENFORCEMENT ACTIONS (In Force)							
Determination Letters	0	1	1	1	0	1	
LUAs	0	0	0	0	0	0	
Cease & Desist Orders	3	3	4	3	3	3	
Dividend Restrictions	0	0	0	0	0	0	
Conservatorships	1	1	1	0	0	0	
Liquidations	1	1	1	1	1	1	
Total	5	6	7	5	4	5	
PERSONNEL STAFFING							
Field Examiners	17	17	17	16	19	18	
Total Personnel	28	27	27	28	31	30	
FINANCIAL OPERATIONS (In Thousands)							
Budgeted Expenditures	4,256	4,902	1,279	1,228	1,228	1,323	5,058
Actual Expenditures	3,588	3,942	1,077	988	1,055	1,200	4,320
Gifts and Bequests	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Actual Revenue	3,982	16,145	2,905	39	1,660	44	4,648
Note: FY23 budget expenditures for quarters 1-4 was reduced due to transfer of \$51,250 requested by Sunset to Contingency Fund							

Credit Union Department
Application Activities - Detail

ACTIVITY	4th Qtr 2021	4th Qtr 2022	2023 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	2	1	1	1	1	
Add: New Applications Filed	1	0	0	0	0	0	
Less: Approved	0	0	0	0	0	1	
Denied/Withdrawn	0	1	0	0	0	0	
Pending at End of Period	1	1	1	1	1	0	
CONVERSIONS							
Pending at Beginning of Period	0	2	2	0	0	0	
Add: Applications Filed	0	0	0	0	0	0	
Less: Approved	0	0	2	0	0	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	2	0	0	0	0	
MERGERS							
Pending at Beginning of Period	2	5	5	1	2	2	
Add: Applications Filed	1	2	0	1	1	0	
Less: Approved	0	2	4	0	0	1	
Denied/Withdrawn	0	0	0	0	1	0	
Pending at End of Period	3	5	1	2	2	1	
BYLAWS							
Pending at Beginning of Period	6	10	1	15	21	14	
Add: Applications Filed	21	7	22	13	8	10	
Less: Approved	14	16	8	7	13	4	
Denied/Withdrawn	1	0	0	0	2	0	
Pending at End of Period	12	1	15	21	14	20	
ARTICLES OF INCORPORATION							
Pending at Beginning of Period	0	2	2	0	0	0	
Add: Applications Filed	0	0	0	0	0	1	
Less: Approved	0	0	2	0	0	1	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	2	0	0	0	0	

Credit Union Department
Movement Profile - Condition Summary

CAMEL RATING	4th Qtr 2021	4th Qtr 2022	2023 FISCAL YEAR				
			*1st Qtr	*2nd Qtr	*3rd Qtr	*4th Qtr	
1	44	37	40	37	37	37	
2	111	111	108	109	110	108	
3	17	19	19	19	19	20	
4	1	4	3	3	2	2	
5	2	2	2	1	1	1	
Total	175	173	172	169	169	168	

** T&FS Employees Credit Union Merged on 2/7/2023

* Information from exam master list

*** Witco Houston Credit Union Liquidated on 1/2/2023

Texas Credit Union Department
Enforcement Actions - Detail

TYPE OF ACTION	In Force 8/31/2021	Issued	Activity Terminated	In Force 8/31/2022	Issued	Activity Terminated	In Force 08/31/2023
Determination Letters	0	2	0	1	***1	**1	1
LUAs	0	0	0	0	0	0	0
Cease & Desist Orders	3	1	3	3	0	0	3
Dividend Restrictions	0	0	0	0	0	0	0
Conservatorships	1	0	1	1	0	*1	0
Liquidations	1	0	1	1	0	0	1
Total	5	3	5	6	1	2	5

* Edinburg Teachers Credit Union

** Alamo City Credit Union

*** Priority Postal CU

Texas Credit Union Department
Examination Activities
Analysis of Current Year

TYPE OF EXAM	Budgeted Number	Actual Number	% Budget	% of Total	% Mailed Within 25 Days
Regular	80	13	65%	8%	100%
Joint	50	21	175%	12%	100%
Remedial	28	9	129%	5%	100%
Total	158	43	110%	27%	100%

Credit Union Department
Movement Profile - Consumer Complaints

CONSUMER COMPLAINTS	YTD 2021	YTD 2022	2023 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
Received	320	355	87	107	99	115	408
Closed	323	343	91	84	111	114	400
Avg. Days to Process	15.25	17.75	19.79	23.5	30.1	26.8	25.05
% Resolved in 30 Days	99%	98%	97%	96%	96%	98%	97%

Texas Credit Union Department
Consumer Complaint - Detail

TYPES OF COMPLAINTS	YTD 2021	YTD 2022	2023 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
LOAN ISSUES							
Collections/Loans	15	17	2		1	1	4
Denial	0	2					0
Loan Issues	1	23	8	16	17	21	62
Credit Report Issues	54	68	17	14	23	15	69
Insurance - CPI, GAAP, Property, etc	6	2	2	1		1	4

ACCOUNT ISSUES							
Discrimination	3	7	1		3	3	7
Electronic Funds Transfer	22	7					0
Holds on Checks	14	6	2	7	1	5	15
Estate/Probate	0	4					0
Fraud/Unauthorized	54	61	19	20	23	32	94
Fees	22	27	3	8	9	7	27
Billing Disputes	31	40	7	4	15	9	35
Other	26	24	12	5	15	13	45

OTHER PRODUCTS/SERVICES							
Account/Loan Balance	10	14	4				4
Account Closed/Frozen	20	12	6	5	2	4	17
Customer Service	38	21	5	3			8
Deceptive Advertisement	0	1	2	2	2		6
Vehicle Title	7	6	1			2	3
Website Issues	0	1					0
TOTAL	323	343	91	84	111	113	400

Credit Union Department
Merger/Conversion Finalized

ACTIVITY	YTD 2021	YTD 2022	2023 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MERGERS							
Number:							
State-to-State	0	3	2				2
Federal-to-State	2	3	2				2
State-to-Federal	2	0					0
Total	4	6	4	0	0	0	4
Assets:							
State-to-State	-	217,230,754	35,995,817				35,995,817
Federal-to-State	136,790,044	585,792,596	130,060,407				130,060,407
State-to-Federal	-	-					0
Total	136,790,044	803,023,350	166,056,224	0	0	0	166,056,224
CONVERSIONS							
Number:							
Federal-to-State	0	1	1	0	0	0	1
State-to-Federal	0	1	0	0	0	0	0
State-to-Mutual Bank	0	0	0	0	0	0	0
Assets:							0
Federal-to-State	-	1,010,685,008	1,099,577,978				1,099,577,978
State-to-Federal		3,541,622,858					0
State-to-Mutual Bank							0
Total	-	4,552,307,866	1,099,577,978	0	0	0	1,099,577,978

Credit Union Department
Web Site Statistics
Report Range: 09/01/2022 thru 08/31/2023

		Number
Total Visits:	Number of Visits	2,043
	Visitors	1,641
	Page Views	7,414
	Number of Repeat Visitors	277
	Average Pages per Visit	3.63
	Average Visit Duration	0:01:47
	New Visitors	84.49%
Most Requested Pages:	Home	2,104
	Frequently Asked Questions	841
	Texas Rules for Credit Unions	574
	File a Complaint Against a Credit Union	576
	Job Postings	216
Most Downloaded Files:	Rules for Credit Unions (PDF)	149
	List of Texas State-Chartered Credit Unions (PDF)	43
	Finance Code - Unofficial Compilation	41
	Newsletter September 2022	26
	Reports and Publications	24



**CONSOLIDATED SEMI-ANNUAL REPORT RECEIVED FOR FISCAL YEAR 2023
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS**

CONSOLIDATED REPORT FOR 469 CREDIT UNION DEPARTMENT

PROCUREMENT CATEGORY	TOTAL EXPENDITURES	TOTAL \$ SPENT WITH NON HUBS / %	TOTAL \$ SPENT WITH HUBS / %	ANNUAL PROCUREMENT GOAL %
HEAVY CONSTRUCTION	0	0 0%	0 0%	11.20%
BUILDING CONSTRUCTION	0	0 0%	0 0%	21.10%
SPECIAL TRADE	\$929	0 / 0%	\$929 / 100.00%	32.90%
PROFESSIONAL SERVICES	0	0 0%	0 0%	23.70%
OTHER SERVICES	\$62,261	\$29,578 / 47.51%	\$32,683 / 52.49%	26.00%
COMMODITY PURCHASING	\$17,750	\$3,641 / 20.51%	\$14,110 / 79.49%	21.10%
TOTAL:	\$80,940	\$33,218 / 41.04%	\$47,722 / 58.96%	

CONSOLIDATED REPORT FOR THE STATE OF TEXAS

PROCUREMENT CATEGORY	TOTAL EXPENDITURES	TOTAL \$ SPENT WITH NON HUBS / %	TOTAL \$ SPENT WITH HUBS / %	ANNUAL PROCUREMENT GOAL %
HEAVY CONSTRUCTION	\$3,880,786,717	\$3,766,038,046 / 97.04%	\$249,608,533 / 6.43%	11.20%
BUILDING CONSTRUCTION	\$920,021,103	\$868,517,695 / 94.40%	\$148,813,367 / 16.17%	21.10%
SPECIAL TRADE	\$495,524,112	\$402,444,469 / 81.22%	\$119,189,815 / 24.05%	32.90%
PROFESSIONAL SERVICES	\$748,747,208	\$670,567,041 / 89.56%	\$177,824,437 / 23.75%	23.70%
OTHER SERVICES	\$3,867,128,747	\$3,374,255,127 / 87.25%	\$586,145,730 / 15.16%	26.00%
COMMODITY PURCHASING	\$3,654,542,445	\$3,280,152,121 / 89.76%	\$387,808,712 / 10.61%	21.10%
TOTAL:	\$13,566,750,332	\$12,361,974,499 / 91.12%	\$1,669,390,593 / 12.31%	

**** ANALYSIS OF AWARDS FOR 469 CREDIT UNION DEPARTMENT**

CERTIFIED HUB GROUP FOR HUB CREDIT	TOTAL # OF HUB VIDS RECEIVING AWARDS / %	TOTAL \$ AMOUNT AWARDED TO HUBS / %
ASIAN PACIFIC	1 / 10.00%	\$3,785 / 7.93%
BLACK	2 / 20.00%	\$1,994 / 4.18%
HISPANIC	2 / 20.00%	\$3,189 / 6.68%
NATIVE AMERICAN	0 / 0%	\$0 / 0%
SERVICE-DISABLED VETERAN	0 / 0%	\$0 / 0%
WOMAN	5 / 50.00%	\$38,753 / 81.21%
TOTAL:	10 / 100.00%	\$47,722 / 100.00%



**CONSOLIDATED SEMI-ANNUAL REPORT RECEIVED FOR FISCAL YEAR 2023
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS**

**** ANALYSIS OF AWARDS FOR THE STATE OF TEXAS**

CERTIFIED HUB GROUP	# OF VIDS ELIGIBLE FOR HUB CREDIT / %	# OF MALES / %	# OF FEMALES / %	TOTAL # OF HUB VIDS RECEIVING AWARDS / %	TOTAL DOLLAR AMOUNT AWARDED TO HUB VIDS / %
ASIAN PACIFIC	1,326 / 8.59%	859 / 12.58%	467 / 5.42%	234 / 7.94%	\$200,810,197 / 12.03%
BLACK	4,356 / 28.22%	2,261 / 33.12%	2,095 / 24.33%	335 / 11.36%	\$160,147,949 / 9.59%
HISPANIC	4,842 / 31.36%	3,239 / 47.44%	1,603 / 18.62%	986 / 33.45%	\$554,562,115 / 33.22%
NATIVE AMERICAN	243 / 1.57%	167 / 2.45%	76 / 0.88%	53 / 1.80%	\$26,875,509 / 1.61%
WOMAN OWNED	4,370 / 28.31%	0 / 0.00%	4,370 / 50.75%	1,280 / 43.42%	\$717,885,225 / 43.00%
SERVICE-DISABLED VETERAN	301 / 1.95%	301 / 4.41%	0 / 0.00%	60 / 2.04%	\$9,109,598 / 0.55%
TOTAL:	15,438 / 100.00%	6,827 / 100.00%	8,611 / 100.00%	2,948 / 100.00%	\$1,669,390,593 / 100.00%

** THE ANALYSIS IS BASED ON THE TOTAL # OF VENDOR ID NUMBERS THAT WERE ELIGIBLE TO RECEIVE HUB CREDIT.

TOTAL # OF CERTIFIED HUBS FOR THE PERIOD OF FY 2023 IS 15,389. THIS AMOUNT ONLY COUNTS SOLE PROPRIETORSHIPS ONCE WHEN THEY CAN HAVE UP TO 4 VIDS.

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex (FIELD STAFF)

Race	Sex		Annual Salary	Tenure	
ASIAN					
	Summary for M (1 detail record)	\$	121,061	23.52	Avg
	Summary for 'Race' = ASIAN (1 detail record)	\$	121,061	23.52	Avg
BLACK					
	Summary for F (5 detail records)	\$	101,478	9.28	Avg
	Summary for M (2 detail records)	\$	75,217	4.95	Avg
	Summary for 'Race' = BLACK (7 detail records)	\$	93,975	8.05	Avg
HISPA					
	Summary for F (3 detail records)	\$	77,188	5.62	Avg
	Summary for M (1 detail record)	\$	58,314	0.82	Avg
	Summary for 'Race' = HISPA (4 detail records)	\$	72,470	4.42	Avg
WHITE					
	Summary for M (7 detail records)	\$	76,517	10.73	Avg
	Summary for 'Race' = WHITE (7 detail records)	\$	76,517	10.73	Avg
TOTALS					
		19	\$ 84,441	9.09	Avg

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex (ADMIN)

Race	Sex	Annual Salary	Tenure	
ASIAN				
	Summary for F (1 detail record)	\$ 46,350	0.65	Avg
	Summary for 'Race' = ASIAN (1 detail record)	\$ 46,350	0.65	Avg
HISPA				
	Summary for F (2 detail records)	\$ 78,310	23.77	Avg
	Summary for M (2 detail records)	\$ 88,797	3.88	Avg
	Summary for 'Race' = HISPA (4 detail records)	\$ 83,553	13.83	Avg
WHITE				
	Summary for F (1 detail record)	\$ 48,600	0.75	Avg
	Summary for M (5 detail records)	\$ 137,717	14.01	Avg
	Summary for 'Race' = WHITE (6 detail records)	\$ 122,864	11.80	Avg
TOTALS				
	11	\$ 101,614	11.52	Avg

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex

Race	Sex	Annual Salary	Tenure	
ASIAN				
	Summary for F (1 detail record)	\$ 46,350	0.65	Avg
	Summary for M (1 detail record)	\$ 121,061	23.52	Avg
	Summary for 'Race' = ASIAN (2 detail records)	\$ 83,705	12.08	Avg

BLACK				
	Summary for F (5 detail records)	\$ 101,478	9.28	Avg
	Summary for M (2 detail records)	\$ 75,217	4.95	Avg
	Summary for 'Race' = BLACK (7 detail records)	\$ 93,975	8.05	Avg

HISPA				
	Summary for F (5 detail records)	\$ 77,637	12.88	Avg
	Summary for M (3 detail records)	\$ 78,636	2.86	Avg
	Summary for 'Race' = HISPA (8 detail records)	\$ 78,011	9.12	Avg

WHITE				
	Summary for F (1 detail record)	\$ 48,600	0.75	Avg
	Summary for M (12 detail records)	\$ 102,017	12.10	Avg
	Summary for 'Race' = WHITE (13 detail records)	\$ 97,908	11.23	Avg

TOTALS				
	30	\$ 90,738	9.98	Avg