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An Audit Report on

Performance Measures at the Commission on Law Enforcement Officer Standards and Education

October 2007

Report No. 08-004



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Overall Conclusion

The Commission on Law Enforcement Officer Standards and Education (Commission) lacks both policies and procedures and a review process to ensure the accuracy of performance measure data reported to the Automated Budget and Evaluation System of Texas (ABEST). As a result, auditors were unable to certify the reported results for any of the five key measures audited.

Background

Agencies report results for their key measures to the Legislative Budget Board's budget and evaluation system, which is called the Automated Budget and Evaluation System of Texas, or ABEST.

Specifically:

- The reported results for one key performance measure, Percent of Licensees with No Recent Violations, were certified with qualification. Although the reported result was accurate, the Commission did not retain source documentation to support the reported performance measure results for two of the four quarters reviewed. However, the reported result was within 5 percent of the actual result, which is required to be considered accurate.
- Results for three key performance measures were inaccurate. These measures' results were inaccurate because the actual performance was not within 5 percent of the performance reported in ABEST.
- Factors prevented the certification of one key performance measure: Average Cost Per Complaint Resolved. The Commission did not retain source documentation for the calculations and did not follow the methodology for calculating the measure results as described in the measure definition. The Commission also did not follow the measure definition and included costs for only one division.

Table 1 on the next page summarizes the results of the five key performance measures tested.

Table 1

| Commission on Law Enforcement Officer Standards and Education (Agency 407) | | | |
|--|------------------|------------------------------|-------------------------------|
| Related Objective or Strategy, Classification Description of Measure | Fiscal Year | Results Reported in ABEST | Certification Results |
| A.1.2 (Outcome) Percent of Licensees with No Recent Violations | 2006 | 99.9% | Certified with Qualification |
| B.1.1 (Outcome) Percent of Complaints Resulting in Disciplinary Action | 2006 | 98.0% | Inaccurate |
| B.1.1 (Efficiency) Average Cost Per Complaint Resolved | 2006 | \$222.71 | Factors Prevent Certification |
| | 2007-1st Quarter | \$130.00 | |
| | 2007-2nd Quarter | \$130.00 | |
| A.1.2 (Output) Number of On-site Academy Evaluations Conducted | 2006 | 103 | Inaccurate |
| | 2007-1st Quarter | 24 | |
| | 2007-2nd Quarter | 29 | |
| B.1.1 (Output) Complaints Resolved | 2006 | 1,904 | Inaccurate |
| | 2007-1st Quarter | 86 | |
| | 2007-2nd Quarter | 151 | |
| | 2007-3rd Quarter | 159 | |
| <p>A measure is Certified if reported performance is accurate within plus or minus 5 percent of actual performance and if it appears that controls to ensure accuracy are in place for collecting and reporting performance data.</p> <p>A measure is Certified with Qualification when reported performance appears accurate but the controls over data collection and reporting are not adequate to ensure continued accuracy. A measure is also certified with qualification when controls are strong but source documentation is unavailable for testing. A measure is also certified with qualification if the agency's calculation of performance deviated from the measure definition but caused less than a 5 percent difference between the number reported to ABEST and the correct performance measure result.</p> <p>A measure is Inaccurate when the actual performance is not within 5 percent of reported performance, or when there is more than a 5 percent error in the sample of documentation tested. A measure is also inaccurate if the agency's calculation deviated from the measure definition and caused more than a 5 percent difference between the number reported to ABEST and the correct performance measure result.</p> <p>A Factors Prevented Certification designation is used if documentation is unavailable and controls are not adequate to ensure accuracy. This designation also will be used when there is a deviation from the measure definition and auditors cannot determine the correct performance measure result.</p> | | | |

Summary of Management's Response

The Commission generally agrees with the findings and recommendations in this report.

Summary of Information Technology Review

The audit's information technology review was limited to a review of general and application controls of the Texas Commission on Law Enforcement Data Distribution System (TCLEDDS). The TCLEDDS database was used to determine the number of licensees for one key measure selected for review. The TCLEDDS database was listed as the data source for another key performance measure, but the database did not have the functionality to provide the information for that measure. Also, system data cannot be relied upon as accurate, valid, and complete.

Although the Commission has significant weaknesses in the administration of access to TCLEDDS, auditors found no evidence of unauthorized changes to the performance measure results that were reviewed.

Summary of Objectives, Scope, and Methodology

The objectives of this audit were to determine whether the Commission:

- Accurately reports selected key performance measure results in ABEST.
- Has adequate control systems in place over the collection, calculation, and reporting of the selected key performance measures.

The scope of this audit included testing five key performance measure results reported by the Commission for fiscal year 2006 and the first three quarters of fiscal year 2007.

Auditors also reviewed controls over the submission of data used in reporting performance measures and traced performance information to the original source documentation when available.

The audit methodology included selecting five key performance measures to audit, identifying preliminary control information from questionnaire responses, evaluating controls over performance measure procedures and associated information systems, and testing performance measure results for accuracy and conformity with measure definitions in ABEST. Auditors reviewed source documentation when testing the accuracy of measure results.

Auditors noted certain other matters regarding internal controls and contracting issues that were outside the scope of this audit; these matters were communicated separately in writing to Commission management.

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Detailed Results

Chapter 1

The Commission Should Implement Controls to Strengthen Its Reporting of Performance Measure Data

The Commission on Law Enforcement Officer Standards and Education (Commission) does not have adequate controls over the collection and reporting of performance measure results for the five key performance measures tested.

Chapter 1-A

The Commission Should Develop and Implement Policies and Procedures for Performance Measure Reporting

The Commission does not have documented policies and procedures for the collection of data and the calculation of the five performance measures audited. There is no documented supervisory review of the individual calculations. As a result, controls to ensure accuracy for collecting and reporting performance measures are not in place. The lack of documented processes caused inconsistencies in calculating measure results and errors in counting complaints, estimating costs, determining the number of licensees, and calculating the number of on-site evaluations performed.

Documented policies and procedures are important and provide a basis for consistent collection and calculation of measure results over time. The lack of documented policies and procedures is a control weakness that creates a risk that errors, or management overrides of procedures, will occur and not be detected.

Recommendation

The Commission should develop, document, and implement policies and procedures for collecting, calculating, reviewing, entering, and reporting data for each of its performance measures. *The Guide to Performance Measure Management*, 2006 Edition, produced by the Legislative Budget Board; Governor's Office of Budget, Planning, and Policy; and the State Auditor's Office is a helpful resource for developing written procedures for performance measure reporting.

Management's Response

The Texas Commission on Law Enforcement Officer Standards and Education ("TCLEOSE" or "Commission") agrees with the recommendation of the

State Auditor's Office and will commit to having documented policies and procedures in place for all key measures by March 15, 2008. The Executive Director will be responsible to ensure that this development, documentation, and implementation occur by these above deadlines.

Chapter 1-B

The Commission Should Develop and Implement a Process to Consistently Review and Document the Review of Performance Measure Results

The Commission does not have policies and procedures that require a review, and subsequent documentation of that review, of supporting documentation prior to reporting performance measure results to the ABEST coordinator.

Also, the Commission does not perform documented reviews of data that has been entered into ABEST before it is released to ensure its accuracy. Although the Commission does have documented procedures for the entry and reporting of information into ABEST, the procedures do not include a step to document the review of the data prior to the data's release into ABEST.

Recommendations

The Commission should:

- Establish and implement policies and procedures for reviewing and documenting reviews of supporting documentation and summary documents before the submission of data to the ABEST coordinator.
- Establish and implement policies and procedures for an independent, documented review of the data entered into ABEST before data submission is complete.

Management's Response

TCLEOSE agrees with the recommendation of the State Auditor's Office and will commit to establishing and implementing policies and procedures for review prior to submission of the data to the ABEST Coordinator. This review will be in place by the second quarter of fiscal year 2008. The review will be completed by the responsible director, and will be mandatory.

TCLEOSE agrees with the second bullet, and will establish and implement policies and procedures for an independent documented review of data entered into ABEST before submission. This will be in place by the second quarter of fiscal year 2008. There will be a double signature review first by the Director of Fiscal and Staff Services, and secondly by the Executive Director or designee in his absence.

The Executive Director will be responsible to insure that both of these recommendations occur by the deadline.

Results for Three Key Performance Measures Were Inaccurate

Inaccurate Results

A performance measure is inaccurate when the actual performance is not within 5 percent of reported performance, or when there is more than a 5 percent error in the sample of documentation tested. A measure also is inaccurate if the agency's calculation deviated from the measure definition and caused more than a 5 percent difference between the number reported to ABEST and the correct performance measure result.

The Commission reported inaccurate results for the following key performance measures:

- Percent of Complaints Resulting in Disciplinary Action.
- Complaints Resolved.
- Number of On-site Academy Evaluations Conducted.

Percent of Complaints Resulting in Disciplinary Action

The results reported to ABEST for this measure were inaccurate because the recalculated result was 16.13 percent greater than the reported results. The Commission reported that 98 percent of jurisdictional complaints resulted in disciplinary action for fiscal year 2006.

Auditors could not re-create this result from the summary documents maintained by the Commission for the calculation of this measure. Because of this, auditors were not able to determine how the Commission arrived at the 98 percent result reported in ABEST. Auditors' recalculated result for this measure was 113.8 percent.

The measure is intended to identify the degree to which actual reported violations are subsequently sanctioned by the Commission. The cases forwarded during a quarter may not be the same cases on which the Commission takes a disciplinary action during that quarter. As a result, the number of disciplinary actions taken during a quarter may exceed the number of cases referred for disciplinary action during that quarter, which can produce a performance measure result of more than 100 percent.

The Commission's Definition and Methodology Are Unclear

ABEST defines the percent of complaints resulting in disciplinary action as the "percentage of jurisdictional complaints forwarded for administrative prosecution which result in disciplinary action taken by the Commission." ABEST states that the methodology for calculating this performance measure's annual result should be "the total number of cases recommended for administrative prosecution divided into the number of disciplinary actions taken by the Commission."

The measure's definition and the measure's methodology in ABEST do not correspond; the methodology is unclear, with insufficient detail provided to determine exactly how this measure should be calculated.

Definitions

Jurisdictional complaint is a case in which there was a judiciary ruling against the licensee.

Closed by exception occurs when a violation is reported but the case is subsequently dismissed.

The measure's definition in ABEST does not identify the period of time that a case should be tracked to resolution after it is referred for administrative prosecution. There are several possible resolutions for resolving a case: (1) disciplinary action, (2) dismissal, or (3) closed by exception. The legal process for jurisdictional complaints can take one month to several years.

The Commission Maintains Two Databases for This Measure

The collection and calculation of information for this performance measure involves two divisions—the Commission's Credentialing and Enforcement Division and its Executive and Legal Services Division. Each division maintains a separate database for tracking the number of complaints forwarded, and the divisions do not have a process to share information in these databases. Auditors identified discrepancies in the database used by the Credentialing and Enforcement Division and the database used by the Executive and Legal Division. The lack of documented policies and procedures for calculating this measure resulted in different interpretations of how to calculate the measure between the two divisions. Also, having two divisions calculate different components of the same performance measure but not sharing the database results for the measure increases the likelihood of errors being made.

Recommendations

The Commission should:

- Meet with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy to revise the measure's definition. The measure's definition in ABEST is not clear and does not provide a time-frame for how long the Commission should track a complaint until resolution, whether it results in a disciplinary action or is closed or dismissed.
- Develop and maintain written policies and procedures that provide clear guidance on how to accurately calculate performance measure results. These written policies and procedures should provide specific guidance on how to account for cases forwarded to the Executive and Legal Services Division for disciplinary action, and how to account for cases that were closed.
- Implement a documented review process that includes a supervisor sign-off verifying that the calculation data was reviewed.
- Consider how the process for coordination of information shared by the Credentialing and Enforcement Division and the Executive and Legal Services Division can be streamlined to eliminate duplication of effort.

Management's Response

TCLEOSE will meet with the Legislative Budget Board and the Governor's Office of Budget, Planning and Policy, and revise the definition of this performance measure.

TCLEOSE will also develop and maintain the agreed upon written policies and procedures, and will separate the investigations functions from the prosecutorial functions, and account for the cases open, transferred and resulting in closures through disciplinary action or other means.

TCLEOSE will further require a supervisor signature on each performance measure prior to submission to ABEST Coordinator.

TCLEOSE presently shares an investigation database and disciplinary (or prosecutorial) database. Both entities can access, but not change each other's database. TCLEOSE will implement by June 15, 2008, one integrated database for both investigation and prosecutorial decisions, including disciplinary actions.

Number of On-site Academy Evaluations Conducted

The reported results for this measure were inaccurate because the Commission included items in its reported results that were not on-site academy evaluations, resulting in an error rate of more than 5 percent in the sample of documents tested.

The Commission reported that 28 on-site evaluations were conducted during the third quarter of fiscal year 2006 and that 29 on-site evaluations were conducted during the second quarter of fiscal year 2007. Auditors identified three items in the results reported for third quarter of fiscal year 2006 that should not have been included as an on-site academy evaluation. Two items were field assistance visits and one item was an advance notice of a pending on-site visit. Auditors identified one item (for a follow-up visit) that should not have been included as an on-site academy evaluation in the second quarter of fiscal year 2007 results. Including these four items that were not on-site academy evaluations resulted in an error rate of 7.02 percent for the quarters tested.

Recommendations

The Commission should:

- Develop and maintain written policies and procedures that provide clear guidance on how to accurately calculate this performance measure,

including what should be included and what should not be included in the reported results.

- Develop and implement a documented review process that includes supervisor sign-off verifying that the calculation data was reviewed.

Management's Response

TCLEOSE agrees with the recommendation of the State Auditor's Office and will develop and maintain written policies and procedures that clearly define what constitutes an audit and an on-site academy evaluation. TCLEOSE will continue to meet and exceed this performance measure.

These written procedures will include a supervisory sign-off on the calculation data. The Executive Director will ensure that the above is accomplished by March 15, 2008.

Complaints Resolved

The reported results for this measure were inaccurate because the Commission did not follow the measure's definition for calculating the measure results. The Commission included 1,346 training violations in its reported total of 1,459 complaints resolved for the second quarter of fiscal year 2006. This resulted in a 93.6 percent overstatement in the reported results for the second quarter of fiscal year 2006 and a 71.7 percent overstatement in the reported results for fiscal year 2006.

In the second and third quarters of fiscal year 2007, the Commission's calculations were not supported by the retained complaint records. As a result, the variance between the reported 396 complaints resolved for the first three quarters of fiscal year 2007 and auditors' recalculated results of 357 complaints is 9.8 percent.

In the second quarter of fiscal year 2006, the Commission added 1,346 training violations to the number of complaints resolved. Although the Commission's rules, policies, and performance measure definitions do not define what should be considered a "complaint," the Commission stated that it does not consider training violations to be complaints, and it did not include training violations in the reported results for any other quarter reviewed.

In addition, the Commission did not follow the definition methodology in ABEST for calculating this measure. The methodology and data source included in the measure's definition state that the Commission should query the Texas Commission on Law Enforcement Data Distribution System (TCLEDDS) for the number of complaints in a given time period. Instead, the

Commission hand counts complaint files to determine the number of complaints resolved in a given time period because TCLEDDS currently lacks the functionality to determine the results for this measure.

Recommendations

The Commission should:

- Develop and maintain detailed, written policies and procedures that ensure measure results are calculated in accordance with the measure definition. These policies and procedures should define what is considered a “complaint.”
- Retain summary documentation that supports the calculation of the performance measure results.
- Implement a thorough, documented review process.
- Work with the Legislative Budget Board and the Governor’s Office of Budget, Planning, and Policy to revise the methodology and data source in the measure’s definition in ABEST to accurately reflect the methodology and data source used by the Commission to determine the number of complaints resolved.

Management’s Response

TCLEOSE agrees with the recommendation of the State Auditor’s Office and will complete these four bullets by March 15, 2008. The Executive Director will be responsible to ensure that the written policies and procedures properly define the “complaint” process, and all other components of this recommendation.

Percent of Licensees with No Recent Violations

The reported results for this measure were accurate. However, because the Commission lacks controls over the collection and calculation of performance measure data, the measure was certified with qualification.

Certified with Qualification

A performance measure is certified with qualification when:

- Reported performance appears accurate but the controls over data collection and reporting are not adequate to ensure continued accuracy.
- Controls are strong but source documentation is unavailable for testing.
- The agency's calculation of performance deviated from the measure definition but caused less than a 5 percent difference between the number reported to ABEST and the correct performance measure result.

The Commission did not retain documentation of cases forwarded to the Executive and Legal Services Division that led to violations for the first and third quarters of fiscal year 2006. The documentation provided to auditors was not sufficient to support the actual percentage of licensees with no recent violations reported in ABEST for this measure.

However, auditors determined that the actual results for this measure would fall within 5 percent of the reported results.

Auditors noted that the measure's definition in ABEST does not include a description of what a licensee is. During the periods reviewed, the Commission used total licensees, which includes inactive licensees, in one period, and in another period it used only active licensees in its calculations of this measure result. The definition should be clarified to identify whether only active licensees should be included or if it should include both inactive and active licensees.

Recommendations

The Commission should:

- Develop and maintain written policies and procedures that provide clear guidance on how to accurately calculate the performance measure results.
- Retain summary documentation that supports the calculation of the performance measures results.
- Implement a documented review process including supervisor sign-offs verifying that the calculation data was reviewed.
- Meet with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy to clarify the measure's definition in ABEST. The measure definition includes the term "licensee," but does not define what a licensee is. The definition should include a description of what the Commission considers a "licensee."

Management's Response

TCLEOSE agrees with the recommendation of the State Auditor's Office and will by March 15, 2008, accomplish the four recommendations referenced Percent of Licensees with No Recent Violations. The Executive Director will be responsible to ensure that the necessary changes are made to this performance measure.

Average Cost Per Complaint Resolved

Factors prevented the certification of this measure because the Commission did not retain documentation to support its calculations of costs for resolving complaints (investigations).

Factors Prevented Certification

A Factors Prevented Certification designation is used if documentation is unavailable and controls are not adequate to ensure accuracy. This designation also will be used when there is a deviation from the measure definition and auditors cannot determine the correct performance measure result.

In addition, the Commission changed its procedures for calculating this measure three times during fiscal years 2006 and 2007 and could not provide documentation to show how the costs were allocated. No summary documentation was available to support the methodology used to calculate the reported quarterly results for this measure.

Auditors were unable to re-create the reported quarterly results for fiscal year 2006 because documentation of the calculations was not available. In addition, the Commission was not able to provide support for the measure results reported for fiscal year 2007, nor did the Commission have an explanation for how the reported \$130 Average Cost Per Complaint Resolved was derived.

The Commission did not follow the measure definition for calculating this key measure result. The definition states that an "average cost per complaint resolved is the average cost in supplies, staff time, court documents, travel, and related expenses." However, the Commission included only the costs incurred by its Credentialing and Enforcement Division for staff time and supplies. The Commission did not include the costs incurred or the number of complaints resolved by its Executive and Legal Services Division.

Recommendations

The Commission should:

- Develop and maintain detailed, written policies and procedures to ensure that measure results are calculated in accordance with the measure's definition and that supporting documentation is retained.
- Develop methodology to track and allocate actual time and expenses for the resolution of complaints.

- Work with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy to align the measure's definition in ABEST with its current information system capabilities.
- Implement a thorough, documented review process.

Management's Response

TCLEOSE agrees with the recommendation of the State Auditor's Office and will by March 15, 2008 accomplish the recommendations. TCLEOSE will develop a method to more accurately define different types of complaints and the variance in cost and expense to handle these complaints.

This will be accomplished through the task analysis process since actual time and actual expense is not practicable. The Executive Director will be responsible to insure this is accomplished by March 15, 2008.

Specific Information Technology Controls Should Be Improved

The Commission's system controls over TCLEDDS are weak. Consequently, the system data cannot be relied upon as accurate, valid, and complete.

The Commission's information technology policies are not specific as to how user access to the Commission's network and data is authorized. The Commission does not consistently follow its policies for making a backup of its servers and storing the nightly backup in a fireproof safe or cabinet.

Auditors identified five individuals who have been authorized as administrative users in TCLEDDS, including two individuals who are employees of a third-party vendor. Administrative access allows a user to override the system controls and add, delete, or edit transactions or fields.

One Commission employee with administrator access is responsible for verifying the accuracy of data entry into TCLEDDS, as well as verifying the accuracy of licenses and certificates generated by TCLEDDS. Generally, a segregation of duties should exist so that the individual responsible for verifying the accuracy of information entered into a system does not have the ability to alter the information that has been entered.

The Commission's disaster recovery plan is comprehensive and addresses the key elements outlined in Title 1, Texas Administrative Code, Section 202.24, except for the annual testing requirement. The Commission has a policy requiring an annual test of its disaster recovery plan; however, the Commission has not tested the plan.

The Commission's physical security over the server room could be strengthened by limiting access to the server room to individuals with a legitimate need for that access.

Recommendations

The Commission should:

- Review its access levels to the TCLEDDS database to ensure that access is appropriate.
- Consider segregating duties for tasks that could be susceptible to fraudulent or other unauthorized activity.
- Develop a process to test its disaster recovery plan annually.
- Strengthen the physical security of and limit the number of individuals with access to the server room.

- Consistently follow its policies for making backups of its servers and the storage of backup tapes. The Commission should occasionally test and verify the restore capabilities of these backups.

Management's Response

TCLEOSE agrees with the recommendation of the State Auditor's Office and will by March 15, 2008, implement the recommendations.

Appendix

Appendix

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine whether the Commission on Law Enforcement Officer Standards and Education (Commission):

- Is accurately reporting the selected performance measures to the Automated Budget and Evaluation System of Texas (ABEST).
- Has adequate control systems in place over the collection, calculation, and reporting of the selected performance measures.

Scope

The scope of this audit included five key measures the Commission reported for fiscal year 2006 and the first three quarters of fiscal year 2007. Auditors also reviewed controls over the submission of data used in reporting performance measures and traced performance information to the original source documentation when available.

Methodology

The audit methodology included selecting key performance measures to audit, testing results for accuracy and conformity with measure definitions in ABEST, and evaluating controls over performance measure procedures and associated information systems.

Auditors selected five key measures reported in ABEST. The Commission completed questionnaires related to its performance measurement processes to help identify preliminary control information.

Specific tests and procedures included:

- Auditing calculations for accuracy and to ensure that they were consistent with the methodology on which the Commission and the Legislative Budget Board agreed.
- Analysis of the flow of data to evaluate whether proper controls were in place.
- Testing a sample of source documents to verify the accuracy of reported performance.

- Performing a high-level review of all information systems that supported performance measure data.
- Observing a demonstration of the Texas Commission on Law Enforcement Data Distribution System (TCLEDDS) and performing a walk-through of the Commission's server room.

Project Information

Audit fieldwork was conducted from July 2007 through August 2007. This audit was conducted in accordance with generally accepted government auditing standards.

The following members of the State Auditor's staff performed the audit:

- Kathy Aven, CIA, CFE (Project Manager)
- Thomas Howe, Jr., MPAff
- Brian Jones, BBA
- J. Scott Killingsworth, CIA, CGFM (Quality Control Reviewer)
- John Young, MPAff (Audit Manager)

Copies of this report have been distributed to the following:

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The Honorable Tom Craddick, Speaker of the House, Joint Chair
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The Honorable Jim Keffer, House Ways and Means Committee

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