



An Audit Report on

Performance Measures at the Department of Licensing and Regulation

- The four performance measures tested were accurately reported, but the Department had weaknesses in its processes over performance measure reporting.
- The Department's management did not always verify the accuracy of performance measure results submitted to the Legislative Budget Board's Automated Budget and Evaluation System of Texas.
- The Department's processes for collecting licensing data lacked adequate controls to ensure the completeness of the data used for determining performance measure results.

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State Auditor

The Department of Licensing and Regulation (Department) reported reliable results into the Automated Budget and Evaluation System of Texas (ABEST) for three key performance measures tested for fiscal year 2021 and one key performance measure tested for fiscal year 2021 and the first two quarters of fiscal year 2022.

However, the Department should improve its controls for verifying performance measure results and collecting data from its licensing systems to help ensure continued accuracy.

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- [Audit Objectives](#) | p. 14

This audit was conducted in accordance with Texas Government Code, Section 2101.038.



CERTIFICATION RESULTS

The Department reported reliable performance measure results into ABEST for the four key performance measures selected. Those performance measures were certified with qualification.

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MANAGEMENT REVIEWS

The Department should ensure that it consistently verifies the accuracy of performance measure results before they are submitted into ABEST.

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DATA COLLECTION

The Department should strengthen its controls over its processes for collecting the licensing data used to calculate performance measure results to help ensure continued accuracy.

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Summary of Management Response

Auditors made recommendations to address the issues identified during this audit, provided at the end of certain chapters in this report. The Department agreed with the recommendations in this report.

Background Information

State of Texas Performance Measures

Performance Measures. In 1991, the Legislative Budget Board (LBB) mandated a new budgeting system for funding agencies and institutions of higher education based on accomplishments (performance) in addition to efforts (workload). The LBB and the Governor’s Office of Budget and Policy jointly approve performance measures and definitions; however, the Governor and the Legislature expect that entity management will be meaningfully involved in developing, monitoring, and using performance measures.

Agencies and institutions of higher education report results for their key performance measures to the LBB using the Automated Budget and Evaluation System of Texas (ABEST). Key performance measures are:

- Budget drivers that are generally externally focused;
- Closely related to the goals identified in the statewide strategic plan; and
- Reflective of the characteristics of good performance measures.

The Department of Licensing and Regulation’s Performance Measures

The Department of Licensing and Regulation (Department) provides oversight for a broad range of occupations, businesses, facilities, and equipment. The Department’s goal is to protect the health and safety of Texans and ensure that they are served by qualified professionals.

Performance Measures Selected. For fiscal years 2021 and 2022, the Department reported to the LBB on 12 key performance measures. The State Auditor’s Office selected 4 (33 percent) of those 12 measures for testing. Figure 1 on the next page provides a summary of the 4 measures selected.

Figure 1

Key Performance Measures Selected for This Audit

Performance Measure	Reporting Frequency	Fiscal Year 2021 Target Performance	Fiscal Year 2022 Target Performance
Percent of Licenses Who Renew Online	Annually	95.00 percent	Not Applicable ^a
Percent of New Individual Licenses Issued Online	Annually	87.00 percent	Not Applicable ^a
Percent of Complaints Closed within Six Months	Annually	74.90 percent	Not Applicable ^a
Number of Complaints Closed	Quarterly	11,565 ^b	10,628 ^b

^a Fiscal year 2022 reporting was not due at the time of the audit.

^b The target performance shown is the cumulative total target performance of the four quarters for the fiscal year.

Source: The LBB.

Certification Designations for Performance Measures

Auditors assign a certification designation for performance measures tested based on (1) an assessment of the adequacy of controls over the performance measure reporting process and (2) the results of testing a sample of applicable source documents. The certification of a performance measure is classified as one of the four categories described in Figure 2.

Figure 2

Performance Measure Certifications

	Certified. Reported performance is accurate within 5 percent of actual performance and it appears that controls to ensure accuracy are in place for collecting and reporting performance data.
	Certified with qualification. Reported performance is accurate within 5 percent of actual performance but weaknesses were identified with one or more controls over collecting, calculating, and reporting performance measure data.
	Inaccurate. This designation is used when (1) actual performance is +/- 5 percent or greater than reported performance or (2) when the agency deviated from the measure definition resulting in actual performance being +/- 5 percent or greater than reported performance.
	Factors prevented certification. This designation is used when either (1) documentation is unavailable, (2) controls are not adequate to ensure accuracy, or (3) there is a deviation from the measure definition and results cannot be determined by auditors.



Chapter 1 Certification Results

The Department reported reliable results for the four performance measures tested.

The four performance measures tested were **certified with qualification** because the Department’s reported results were accurate within 5 percent of the actual performance. However, the Department’s controls were not adequate to ensure continued accuracy. Auditors identified weaknesses in the Department’s processes for management’s review of performance measure results (see Chapter 2-A) and for data collection (see Chapter 2-B). Figure 3 summarizes the certification results for the four performance measures tested.

Figure 3

Summary of Performance Measure Results at the Department

Performance Measure	Fiscal Year	Result Reported in ABEST	Certification Result ^a
Percent of Licenses Who Renew Online	2021	96.30 percent	
Percent of New Individual Licenses Issued Online	2021	92.20 percent	
Percent of Complaints Closed within Six Months	2021	60.00 percent	
Number of Complaints Closed	2021	9,335	
	2022 ^b	5,423 ^c	



^a A **measure is certified with qualification** when results are accurate but weaknesses were identified with one or more of the controls over collecting, calculating, and reporting performance measure data.

^b At the time of the audit, the Department had reported results for only Quarter 1 and Quarter 2 of fiscal year 2022.

^c The result shown is the cumulative total for Quarter 1 and Quarter 2 of fiscal year 2022.

Chapter 2-A

Management Reviews

The Department should improve controls to ensure that executive management and division management conduct and document their reviews of performance measure results before submitting that information into ABEST as required by its policies and procedures and the *Guide to Performance Measure Management* (2012 Edition)¹.

The Department's executive management did not consistently review reported results before their submission into ABEST.

For the four performance measures tested, the Department's executive management did not always review the annual and quarterly results reported from September 1, 2020, through February 28, 2022. Specifically:

- **For three measures that had performance reported annually**—Percent of Licenses Who Renew Online, Percent of New Individual Licenses Issued Online, and Percent of Complaints Closed within Six Months—executive management did not review the performance measure results reported for fiscal year 2021.
- **For one measure that had performance reported quarterly**—Number of Complaints Closed—executive management reviewed the performance measure results for Quarter 2 of fiscal year 2022; however, executive management did not review the performance measure results reported quarterly for fiscal year 2021 or for Quarter 1 of fiscal year 2022.

The Department asserted that it was unable to obtain executive management's review of performance measure results because executive management and the ABEST coordinator were working from home due to the COVID-19 pandemic in fiscal year 2021 and the first half of fiscal year 2022. Executive

¹ [State Auditor's Report No. 12-333](#).

management was able to review the results for Quarter 2 of fiscal year 2022 because staff had returned to working in the office.

The Department's policies and procedures for reporting performance measures require executive management to review the performance measure results before that information is submitted into ABEST.

The Department could not provide documentation showing that division management reviewed certain performance measure results prior to their submission.

The management over the Department's licensing and enforcement divisions could not provide documentation to show that they reviewed the results for 3 (75 percent) of 4 performance measures tested before those results were provided to the ABEST coordinator for submission. Specifically:

- **For the Percent of Licenses Who Renew Online and Percent of New Individual Licenses Issued Online performance measures**, the licensing division's management asserted that reviews were performed, but those reviews were not documented. The *State's Guide to Performance Measure Management* states that a review of the measure calculations and summary documents should occur before performance measure information is reported and that the review should be documented.
- **For the Number of Complaints Closed performance measure**, the enforcement division's management could not provide documentation to show that it reviewed performance measure results for 3 (50 percent) of the 6 quarterly reporting periods tested. While the Department had documentation of those reviews for Quarter 4 of fiscal year 2021 and the first two quarters of fiscal year 2022, it asserted that it could not locate that documentation for the first three quarters of fiscal year 2021. The *State of Texas Records Retention Schedule* specifies that performance measure documentation should be retained for the fiscal year reported plus three years, to respond to audits and to other performance-related questions.

Not adequately documenting reviews of data increases the risk that the Department may report inaccurate results in the future.

Recommendations

The Department should:

- Ensure that its executive management and division management consistently conduct and document their reviews of performance measure results prior to submitting that information into ABEST.
- Retain documentation of its divisions' managers' reviews of performance measure results in accordance with the *State of Texas Records Retention Schedule*.

Management's Response

The Department should:

- Ensure that its executive management and division management consistently conduct and document their reviews of performance measure results prior to submitting that information into ABEST.

Management agrees with the Recommendation.

TDLR is updating its procedures to ensure that management for each division with performance measures to report will conduct and document a review of those performance measure numbers prior to submitting them to the Executive Office for submission in ABEST. Those same procedure updates will include a requirement for the Executive Office to conduct and document an additional review of all performance measures to be reported, as well as the numbers that have are entered into ABEST for submission prior to their submission.

Responsible Staff: Policy Research and Budget Analyst

Timeline for Implementation: December 31, 2022

- Retain documentation of its divisions' managers' reviews of performance measure results in accordance with the *State of Texas Records Retention Schedule*.

Management agrees with the Recommendation.

While the Licensing Division's management did review its performance measures during the audit period before they were submitted to the ABEST coordinator, that review was not documented. The Licensing Division has developed a method to document the review of performance measures and retain them in accordance with the retention schedule. These changes were put into effect on September 1, 2022.

The Enforcement Division's management performed and documented the review of its performance measures during the audit period before they were submitted to the ABEST coordinator, however it did not properly retain that documentation. The division has updated its procedures and now documents and stores each quarter's reviews into a secure folder in the department's SharePoint Teams website to prevent a reoccurrence of missing documentation, and the documentation will be kept in accordance with the retention schedule. These changes were put into effect on September 1, 2022.

Responsible Staff: Director of the Licensing Division; Director of the Enforcement Division

Timeline for Implementation: September 1, 2022

Chapter 2-B

Data Collection

The Department's controls over its data collection processes for the (1) Percent of Licenses Who Renew Online and (2) Percent of New Individual Licenses Issued Online performance measures were not adequate to ensure continued accurate reporting.

The Department's policies and procedures do not include all licensing systems used for reporting performance.

The Department adopted written policies and procedures for reporting performance measures related to its licensing programs into ABEST. However, the Department last updated those policies and procedures in January 2012 and they do not reflect all of its current processes for reporting performance.

While the policies and procedures describe how to collect licensing data, they identify only one of the two licensing systems that the Department uses for reporting the results of the performance measures tested. Specifically, they did not identify the licensing system that manages data for the 13 licensing programs that transferred from the Department of State Health Services to the Department in October 2016 and November 2017².

² Senate Bill 202 (84th Legislature) transferred the following licensing programs to the Department: athletic trainers; dietitians; dyslexia therapy programs; hearing instrument fitters and dispensers; midwives; orthotists and prosthetists; speech-language pathologists and audiologists; code enforcement officers; laser hair removal programs; massage therapists; mold assessors and remediators; offender education programs; and sanitarians.

The Department did not ensure the completeness of the licensing data used to calculate one of the measures tested.

The Department also did not ensure that all licenses that could be renewed online were included in its data collection for the Percent of Licenses Who Renew Online performance measure. Specifically, online renewals for drug offender education instructor licenses were not included in the reported performance results tested. Online renewal for those licenses became available in May 2019; however, the Department did not update the query used to collect data from its licensing system to include the data on those license renewals.

The weaknesses identified did not result in inaccurate reporting for the performance results tested for fiscal year 2021.

However, if the Department's policies and procedures do not include current and correct information for collecting licensing data, future reporting may be inaccurate. Additionally, the State's *Guide to Performance Measure Management* specifies that written procedures for collecting and calculating performance should exist and that the agency should clearly document all steps performed in the collection, calculation, review, and reporting of the performance measure data in its written policies and procedures.

Recommendations

The Department should:

- Update its policies and procedures to identify (1) the applicable licensing systems used for collecting data and (2) the types of licenses that should be included in the data collected.
- Develop, document, and implement a process to review and update the query used to collect licensing data when new licenses become available to be issued and renewed online.

Management's Response

The Department should:

- Update its policies and procedures to identify (1) the applicable licensing systems used for collecting data and (2) the types of licenses that should be included in the data collected.

Management agrees with the Recommendation.

The Licensing Division is in the process of hiring a Management Analyst who will be dedicated to overseeing the division's performance measures, including, but not limited to, licensing performance measures report running, data entry, validation, auditing, and updating performance measures procedures. It is anticipated that the position will be filled in January 2023, when the analyst will begin training on licensing standard operating procedures and performance measures. Once the analyst is sufficiently knowledgeable on all Licensing processes, updating the division's policies and procedures for all applicable licensing systems used for collecting performance measure data, and the types of licenses that should be included in that data, can begin. The Licensing Director and the division's Executive Assistant will work with the Management Analyst to update the policies and procedures and will verify that they are correct as the work progresses.

Responsible Staff: Director of the Licensing Division

Timeline for Implementation: August 31, 2024

- Develop, document, and implement a process to review and update the query used to collect licensing data when new licenses become available to be issued and renewed online.

Management agrees with the Recommendation.

This function will be performed by the Licensing Management Analyst, who will perform monthly audits of sample data for each performance measure, each database from which the data is collected, the reports used to gather that data, and the Excel spreadsheets in which that is entered. The analyst will document which audits were performed and the results of those audits, along with any corrective action identified and taken. The analyst will also ensure and document that each performance measure and each license type are audited at least annually.

This process for the Management Analyst will be developed and documented by December 31, 2022, and implementation will begin in January 2023 with the hiring of the analyst. In addition, effective November 15, 2022, each Licensing manager will confirm that the performance measure reports are updated appropriately as part of a licensing program's implementation or revision.

Responsible Staff: Director of the Licensing Division

Timeline for Implementation: January 31, 2023



Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine whether the Department of Licensing and Regulation (Department):

- Reports accurate performance measure results to the Automated Budget and Evaluation System of Texas (ABEST).
- Established adequate controls over the collection, calculation, and reporting of its performance measures.

Scope

The scope of this audit included three key performance measures that the Department reported for fiscal year 2021 and one key performance measure that the Department reported for fiscal year 2021 and the first two quarters of fiscal year 2022 (September 1, 2021, through February 28, 2022). The scope also included a review of significant internal control components related to the Department's processes for collecting, calculating, and reporting performance measures.

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



- Pamela A. Bradley, CPA, CFE (Project Manager)
- Aaron Daigle, CPA (Assistant Project Manager)
- Lance Cofield
- Rogelio De La Fuente Jr., CPA
- Jennifer Grant, CFE
- Alex Kipple
- Donna Knight, CFE
- Emmanuel Melendez, CPA, MBA
- Venus Santos
- Ann E. Karnes, CPA (Quality Control Reviewer)
- Willie Hicks, CIA, MBA, CGAP (Audit Manager)

Methodology

We conducted this performance audit from May 2022 through October 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In addition, during the audit, matters not required to be reported in accordance with *Government Auditing Standards* were communicated to Department management for consideration.

Addressing the Audit Objectives

During the audit, we performed the following:

- Interviewed Department management and staff to identify the Department’s process for collecting, calculating, and reporting key performance measures, including internal controls over the process.
- Identified the applicable criteria:
 - *Guide to Performance Measurement Management* (2012 Edition) (SAO Report No. [12-333](#)).
 - The Department’s policies and procedures.
- Tested certain general and application controls over selected licensing and enforcement information systems.
- Recalculated and tested the Department’s source and supporting documents to verify the accuracy of numbers reported into ABEST and the effectiveness of controls over reporting performance.
- Assessed performance data results and assigned one of the following four designations: (1) certified, (2) certified with qualification, (3) inaccurate, or (4) factors prevented certification.

Additionally, we tested the nonstatistical samples listed in Figure 4 on the next page to verify the accuracy of data used for calculating the (1) Percent of Complaints Closed within Six Months and (2) Number of Complaints Closed performance measures.

Figure 4

***Total Populations and Samples Selected
for the Two Complaints-related Performance Measures Audited***

Data Description	Population	Sample Size	Sampling Methodology ^a	Representative Determination
Complaints Closed within 6 Months (Fiscal Year 2021)	5,601	25	Random selection	Representative
Complaints Closed (Fiscal Year 2021)	9,335	25	Random selection	Representative
Complaints Closed (Fiscal Year 2022 ^b)	5,423	25	Random selection	Representative

^a The design for all three samples listed was chosen so the samples could be evaluated in the context of the populations. Specifically, the sample design ensured that each complaint had the same probability of being selected. The test results may be projected to the populations, but the accuracy of the projections cannot be measured.

^b The fiscal year 2022 complaints data obtained covered the time period from September 1, 2021, through February 28, 2022.

Data Reliability and Completeness

Auditors (1) observed Department staff extract requested data populations, (2) reviewed data queries and report parameters, and (3) analyzed the populations for reasonableness and completeness. Auditors determined that the following populations were sufficiently reliable and complete for purposes of this audit:

- Population of new licenses the Department issued from September 1, 2020, through August 31, 2021.
- Population of licenses the Department renewed from September 1, 2020, through August 31, 2021.
- Population of complaints closed at the Department from September 1, 2020, through February 28, 2022.

Appendix 2

Related State Auditor's Office Reports

Figure 5

Report Number	Report Name	Release Date
<u>19-049</u>	<i>An Audit Report on Health-related Programs at the Department of Licensing and Regulation</i>	August 2019



Copies of this report have been distributed to the following:

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The Honorable Dade Phelan, Speaker of the House, Joint Chair

The Honorable Joan Huffman, Senate Finance Committee

The Honorable Robert Nichols, Member, Texas Senate

The Honorable Greg Bonnen, House Appropriations Committee

The Honorable Morgan Meyer, House Ways and Means Committee

Office of the Governor

The Honorable Greg Abbott, Governor

Department of Licensing and Regulation

Members of the Commission of Licensing and Regulation

Mr. Mike Arismendez, Executive Director



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