



John Keel, CPA
State Auditor

An Audit Report on

The State Office of Administrative Hearings

August 2006
Report No. 06-063



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Overall Conclusion

The State Office of Administrative Hearings (Office) does not have adequate contracting and financial processes to ensure that it manages cases and bills agencies in accordance with contract requirements. We could not establish the reliability of information in two of the Office's automated systems. However, we selected and tested a sample of billing statements and cases and did not identify any errors in billing statements or instances in which the Office gave preference to cases.

Although we did not identify any errors in our testing, we identified significant weaknesses in two of the Office's automated systems. These weaknesses prevented us from verifying that information in those systems was complete and accurate. These weaknesses could potentially affect whether:

- The Office produces accurate billing statements.
- The Office initiates, processes, and schedules general docket cases objectively in accordance with its rules of practice and procedures.

In addition, the Office:

- Does not consistently follow its policies and procedures for billing agencies. However, the inconsistencies we identified did not result in errors on billing statements.
- Does not always ensure that access to certain automated systems is restricted to only those individuals who require access.

Background Information

The State Office of Administrative Hearings (Office) was created to independently manage contested cases and conduct hearings for those contested cases for other state agencies.

The Office is organized into six teams: Administrative License Revocation and Field Enforcement, Administrative Dispute Resolution, Economic, Licensing and Enforcement, Natural Resources, and Utilities.

In fiscal year 2005, the Office:

- Employed 57 administrative law judges (out of 118 authorized full-time employees).
- Worked 37,091 cases at a cost of approximately \$8.2 million.

In fiscal year 2001, the Office:

- Employed 59 administrative law judges (out of 122 authorized full-time employees).
- Worked 21,549 cases at a cost of approximately \$7.1 million.

This above caseload and cost information was obtained from the Office's *Hearings Activity Report*, which summarizes the total costs for handling all cases worked (including alternative dispute resolution proceedings).

According to the Automated Budget and Evaluation System of Texas (ABEST), the Office's average cost per case in fiscal year 2005 was \$186.65. This was below the targeted amount of \$320.00 due to the complexity and length of hearings. This performance measure includes administrative license revocation cases, which typically cost less than non-administrative license revocation cases. This performance measure does not include costs related to alternative dispute resolution proceedings. The average cost per case without administrative license revocation cases was \$971.00.

- Does not always comply with Texas Government Code, Section 2003.024, which requires it to enter into lump sum contracts with state agencies that have “referred matters to the office during any of the three most recent state fiscal years.” Instead, the Office maintains hourly contracts with some agencies.

Although we identified the issues discussed above, we also determined that the Office’s methodology for monitoring agencies’ compliance with riders in the General Appropriations Act was appropriate to (1) identify agencies that exceeded their workload and (2) bill those agencies the correct rate.

Summary of Management’s Response

The Office agrees with all but one of the recommendations in this report. The Office disagrees with our conclusion that it does not always comply with Texas Government Code requirements regarding lump sum contracts. However, the Office agrees to establish procedures regarding those statutory requirements and/or seek modification of those statutory requirements.

Summary of Information Technology Review

Our review of information technology focused on three of the Office’s systems:

- The TimeSlips system, which maintains time information used to produce billing statements.
- The Case Management System, which maintains case information necessary to ensure that cases are initiated, processed, and scheduled in accordance with the Office’s rules of practice and procedures.
- MIP, which is the Office’s internal accounting system.

Controls in both TimeSlips and the Case Management System do not ensure that data in those systems is accurate and complete. The Office also should correct system access weaknesses in the TimeSlips system and MIP, and it should strengthen segregation of duties for MIP.

Summary of Objectives, Scope, and Methodology

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

- Produces accurate billing statements in accordance with client agencies’ contracts or agreements.
- Complies with its rules of practice and procedures in the Texas Administrative Code and its Administrative Law Judge Code of Conduct to ensure that cases are initiated, processed, and scheduled objectively and within standards.

The audit scope covered billing and docketing from September 2005 through March 2006. The scope included both information systems and processes and procedures for client agency billing and docketing for non-administrative license revocation cases. Administrative license revocation cases were not reviewed.

The audit methodology included collecting information and documentation; analyzing and evaluating data; performing selected tests and other procedures; and conducting interviews with Office staff and management.

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Detailed Results

Chapter 1

Billing and Case Information in the Office's Automated Systems May Not Be Complete and Accurate, and the Office Does Not Properly Restrict Access to Certain Systems

Controls in the State Office of Administrative Hearings' (Office) TimeSlips system and Case Management System do not ensure that the information maintained in these systems is complete and accurate. The Office relies extensively on time information recorded in its TimeSlips system to produce billing statements. It relies on the case information in its Case Management System to ensure that cases are initiated, processed, and scheduled objectively.

In addition, the Office does not always ensure that access to the TimeSlips system and its internal accounting system, is restricted only to individuals who require access. Inappropriate access increases the risk that information could be accidentally or intentionally altered.

Time information in the Office's TimeSlips system may not be complete and accurate.

The Office does not electronically approve the information regarding time worked on cases that is recorded in the TimeSlips system. Nevertheless, the Office uses that information to generate billing statements. The integrity of the time information in TimeSlips could not be determined, and the billing status information recorded in that system is not accurate. As a result, auditors could not determine whether the Office produces accurate billing statements.

TimeSlips is designed to allow the Office to electronically approve the information regarding time worked on cases, but the Office does not use this feature of the system. If that feature were used, the TimeSlips system would perform 13 different processes, including (1) assigning invoice numbers to billing statements, (2) updating client agencies' historical information, and (3) locking the supporting records to prevent users from changing the recorded time.

Auditors reviewed 309 (57% percent) of the 538 records for one client agency in TimeSlips and determined that, although the Office billed the agency for services it provided, it did not consistently record the billing status in the TimeSlips system. However, the amount the Office billed this agency was consistent with the amount recorded in the TimeSlips system. As Chapter 3

discusses, based on our testing, we did not identify any errors in billing amounts.

Case information in the Office's Case Management System may not be complete and accurate.

The Office's Case Management System "loses" docket numbers when that system is "refreshed." According to the Office, if a user has not posted the docket entry prior to the system's "refresh," the docket entry currently being processed will be "lost."

Auditors determined there were 67 missing docket numbers from fiscal year 2005 and 8 missing docket numbers from fiscal year 2006. The Office does not track docket numbers the Case Management system loses. Although the Office explained the missing docket numbers, auditors could not verify those explanations. As a result, auditors could not determine whether this system includes all cases.

The Office does not always ensure that access to its TimeSlips system and its internal accounting system is restricted to individuals who require access.

A total of 22 Office staff can enter and edit time worked on cases in the TimeSlips system. This information is used to generate billing statements. Most of these staff do not have responsibilities that require them to have this level of access.

These staff can also enter and edit time worked on cases during the Office's manual review and verification of billing statements. Any changes to records in the TimeSlips System would not be reflected on detailed reports the Office uses to conduct its manual review of client agency billing statements.

Auditors identified one instance in which the Office did not bill a client agency for services because staff incorrectly identified the client agency's billing status. The Office attempted to research this issue and determined that the record had been deleted from the TimeSlips system. As a result, the Office could not identify who made the error or when the error was made.

TimeSlips has one shared security administrator account with an easy-to-remember password. In addition, the Office's security administrator assigns and sets user account passwords for TimeSlips, and users are unable to change their own passwords. This is a violation of Title 1, Texas Administrative Code, Section 202.25 (3) (A).¹ The security administrators have the ability to adjust user rights on any account and perform work in the TimeSlips system. These actions could go undetected, and the system would not have an audit trail to determine who made specific change to access rights.

¹ Title 1, Texas Administrative Code, Section 202.25 (3) (A), requires that "Each user of information resources shall be assigned a unique identifier except for situations where risk analysis demonstrates no need for individual accountability of users."

Seven staff members can enter and edit billing statements, revenues for services provided (including walk-in cash receipts), and credit memos in MIP, the Office's internal accounting system. This lack of segregation of duties increases the risk that cash could be taken without detection. According to the Office, it received approximately \$151,000 in cash in fiscal year 2005 and \$134,000 in cash through June 2006.

In addition, a staff member who is an end user of MIP is also responsible for assigning access rights to MIP users. This responsibility should not normally be assigned to end users. Assigning this responsibility to someone other than an end user helps to maintain integrity and security of critical data.

Recommendations

The Office should:

- Electronically approve time worked on cases in its TimeSlips system to ensure that (1) invoice numbers on billing statements are consistently assigned; (2) client agencies' historical information is completely and accurately updated and recorded; and (3) supporting records are locked to prevent users from adding, modifying, and deleting time worked on cases.
- Provide training to users of the TimeSlips system to help them understand how the system can be used to provide complete and accurate billing information and reduce the time spent on manual billing processes.
- Identify and track "lost" docket numbers that are not recorded in the Case Management System.
- Restrict access to the TimeSlips system and to MIP to the minimum access necessary (if any) to perform job duties and properly segregate job duties.
- Comply with the Texas Administrative Code by giving TimeSlips system users the ability to create their own unique passwords.
- Assign staff, other than an end user, the responsibility of assigning access rights to MIP.

Management's Response

Recommendation: Electronically approve time worked on cases in its TimeSlips system to ensure that (1) numbers on billing statements are consistently assigned; (2) client agencies' historical information is completely and accurately updated and recorded; and (3) supporting records are locked to prevent users from adding, modifying and deleting time worked on cases.

Management agrees with these recommendations. Procedures will be reviewed and updated. Practices will be reinforced to adhere to procedures. Procedures have been implemented to ensure the electronic approval of the invoices/bills in Timeslips.

Person Responsible: Chief Operating Officer

Completion date: August 11, 2006, for electronic approval. December 31, 2006, for procedure review and updates.

Recommendation: Provide training to users of the TimeSlips system to help them understand how the system can be used to provide complete and accurate billing information and reduce the time spent on manual billing processes.

Management agrees with this recommendation. Contact has been made with Clyde Bennet Associates, a consultant knowledgeable in Timeslips, to coordinate a training session. In addition, ongoing discussions/training will be scheduled to reinforce issues and revised processes.

Person Responsible: Chief Operating Officer

Completion date: August 18, 2006 (contact with Clyde Bennet Associates); training will be scheduled in coordination with Clyde Bennet Associates.

Recommendation: Identify and track "lost" docket numbers in the Case Management System.

Management agrees with the recommendation to create an audit trail for the skipped docket numbers. In order to achieve this, we have implemented a database where docket clerks will input information each time a docket number is skipped. This information will include the docket number, the date of the occurrence, and the docket clerk making the notation. In the future, by including these docket numbers with those in CMS, we should be able to account for each and every docket number in consecutive order. (We disagree with the characterization of these docket numbers as "lost.")

Person Responsible: Assistant for Direct Hearings Support

Completion date: August 18, 2006

Management firmly believes, however, that the case-related information in this database is accurate and complete, because SOAH has multiple reliable checks on this system that may be relied upon for this determination. First, SOAH has a report that compares docketed cases in CMS to cases with billed time entered into Timeslips, our billing software system and database. If CMS

lost a case instead of simply skipping a blank docket number, the discrepancy would be discovered when time is billed, and Timeslips would not “true up” with CMS. Also, when an agency files a case, a confirmation of the filing is sent to the agency. SOAH maintains and has reviewed copies of the confirmations and has not found any of the skipped docket numbers as confirmed cases. As an important and final external CMS check, management notes that SOAH has never had a complaint from an agency or other party about a lost case or cases. If a case were to be sent to SOAH and SOAH took no action in it, one or both parties would inquire about the case status. For these reasons, management believes SOAH has appropriately docketed, recorded, and scheduled all cases filed. This belief is supported by the auditors’ selection and testing of a sample of general docket cases. As noted in this report, no errors were found. Finally, we note that the technical glitch resulting in skipped docket numbers occurs rarely (00.59 % of the time in FY 2005 and 00.42% in FY 2006). This occurrence is immediately known by the docket clerk making the entry because the CMS fields to be entered disappear. The skipped docket number cannot be recovered or used in any fashion. The next consecutive docket number is then assigned to the case and the required information is entered into CMS. Management is confident for these reasons that it has not lost any cases as a result of the technical glitch, and that all cases received from referring agencies are accounted for.

Recommendation: Restrict access to the TimeSlips system and to MIP to the minimum access necessary (if any) to perform job duties and properly segregate job duties.

Management agrees with recommendation. Security access for both systems (as well as processes) will be evaluated to correspond to job duties and revised as appropriate. The review and revision may include, but not be limited to, restricting access to “view only,” with no ability to enter or edit data, as appropriate to the particular job duty.

*Person Responsible: Chief Operating Officer
Completion date: September 1, 2006*

Recommendation: Comply with the Texas Administrative Code by giving TimeSlips system users the ability to create their own unique passwords.

Management agrees with this recommendation. To ensure compliance with the Texas Administrative Code, the Information Resources Department will use the system Authentication method to allow each user to create and change his/her individual password in TimeSlips. The user will be required to change the password every 90 days to ensure security, and all passwords will be required to be at least 8 characters long.

*Person responsible: Information Resources Manager
Completion date: September 1, 2006*

Recommendation: Assign staff, other than an end user, the responsibility of assigning access rights to MIP.

Management agrees with this recommendation. The Information Resources (IR) Department will assign access rights and permissions to individual users or groups for specific resources in the MIP accounting system. In order to centralize the administration of access and permissions granted, IR will maintain and monitor this process in the MIP system.

*Person responsible: Information Resources Manager
Completion date: September 1, 2006*

The Office Does not Have Adequate Contract Management Processes to Ensure That It Always Complies with Statutory Requirements and Contract Provisions

The Office does not have adequate contract management processes to ensure that it always complies with statutory requirements and contract provisions. (See Appendix 2 for a summary of the Office's caseload.)

The Office does not always comply with Texas Government Code, Section 2003.024, which requires it to enter into lump sum contracts with state agencies that have "referred matters to the office during any of the three most recent state fiscal years" (see Appendix 3 for the full statute). Instead, the Office maintains hourly contracts with some agencies.

The Office has only one lump sum contract (with the Texas Commission on Environmental Quality). The Office asserts that it does not have lump sum contracts with other agencies because information required to estimate hourly usage and other related costs was not available. However, we noted that the Office had information available to estimate hourly usage.

According to the Office, it had 13 agency contracts (both hourly and lump sum) totaling \$1,549,860 in fiscal year 2005. It has 14 agency contracts (both hourly and lump sum), totaling \$2,293,859 in fiscal year 2006. Table 1 lists all of the Office's client agency contracts for fiscal years 2005 and 2006.

Table 1

The Office's Contracts with Client Agencies Fiscal Years 2005 and 2006				
Client Agency	Fiscal Year 2005		Fiscal Year 2006	
	Contract Term	Maximum Contract Amount ^a	Contract Term	Maximum Contract Amount ^a
Department of Aging and Disability Services	September 2004 through August 2005	\$100,000	September 2005 through August 2006	\$100,000
Animal Health Commission	September 2003 through August 2005	5,000		
Department of Assistive and Rehabilitative Services	September 2004 through August 2005	10,000		
General Land Office			September 2005 through August 2006	1,000
Texas Ethics Commission			September 2005 through August 2006	5,000
Office of the Attorney General	February 2004 through August 2005	90.00/hour	September 2005 through August 2007	100.00/hour

**The Office's Contracts with Client Agencies
Fiscal Years 2005 and 2006**

Client Agency	Fiscal Year 2005		Fiscal Year 2006	
	Contract Term	Maximum Contract Amount ^a	Contract Term	Maximum Contract Amount ^a
Texas Education Agency	September 2004 through August 2005	20,000	September 2005 through August 2006	130,000
Texas Commission on Environmental Quality ^b	September 2004 through August 2005	938,860	September 2005 through August 2006	938,860
Texas County and District Retirement System			September 2005 through August 2006	5,000
Department of Family and Protective Services	September 2004 through August 2005	200,000	September 2005 through August 2006	450,000
Texas Board of Professional Engineers			September 2005 through August 2006	5,000
Texas Board of Architectural Examiners			September 2005 through August 2006	35,000
Texas State Board of Public Accountancy			September 2005 through August 2006	14,000
Texas Department of Insurance Division of Workers' Compensation			September 2005 through August 2006	500,000
Health and Human Services Commission	September 2003 through September 2005	100,000		
Texas Residential Construction Commission	September 2004 through August 2005	100,000	September 2005 through August 2006	100,000
Texas Workforce Commission	May 2004 through April 2005	3,000		
Texas Youth Commission	September 2004 through August 2005	8,000	September 2005 through August 2006	9,999
Edwards Aquifer Authority	January 2004 through December 2004	50,000		
Edwards Aquifer Authority	January 2005 through December 2005	15,000		
Totals		\$1,549,860		\$2,293,859

^a These are maximum contract amounts and are not the amounts the Office actually billed or received.

^b The Texas Commission on Environmental Quality is the only client agency with a lump sum contract agreement.

Source: Unaudited information from the State Office of Administrative Hearings as of May 2006.

We also reviewed the Office's contracts and agreements with agencies to verify compliance with billing requirements and identified the following issues:

- The Office does not have written contract management policies and procedures. According to the Office, it has established processes for various components of contract management; however, it has not

centralized its oversight of these components to help ensure that it complies with contract requirements.

- In fiscal years 2005 and 2006, the Office provided services totaling approximately \$38,000 to the Department of State Health Services. However, the Office has never had a contract with the Department of State Health Services.
- In fiscal year 2006 (through April 2006), the Office provided services totaling approximately \$1,000 to two entities (the Edwards Aquifer Authority and the Animal Health Commission). However, the Office's contracts or agreements with these two entities had expired at the time the Office provided these services.
- From January 2004 through December 2005, the Office billed the Edwards Aquifer Authority \$18,639.65 more than the \$50,000 maximum contract amount. It did not execute a contract amendment to change the contract maximum.

Additionally, from September through December 2005, the Office billed the Edwards Aquifer Authority at a rate of \$100 per hour. However, the contract with the Edwards Aquifer Authority that was in effect at that time specified a payment rate of \$90 per hour. The Office did not execute a contract amendment to change the payment rate. As a result, from September through December 2005, the Office overcharged the Edwards Aquifer Authority a total of approximately \$678.

Recommendations

The Office should:

- Comply with the Texas Government Code requirements regarding lump sum contracts and contract provisions. Alternatively, it should assess whether current requirements should be modified to ensure it can address client agencies' needs.
- Actively oversee its contract management process to ensure that contracts and contract amendments are executed in a timely manner and that amounts billed are consistent with contract provisions.
- Centralize contract management policies and procedures.
- Establish contracts or agreements for all client agencies to which services are to be provided through interagency contracts.
- Monitor billing rates and ensure those rates are consistent with contract provisions.

Management's Response

Recommendation: Comply with the Texas Government Code requirements regarding lump sum contracts and contract provisions. Alternatively, it should assess whether current requirements should be modified to ensure it can address client agencies' needs.

Management disagrees that SOAH fails to comply with Texas Government Code requirements. Rather, SOAH believes that it is in substantial compliance with the provision in the Texas Government Code requiring lump sum advance payment to SOAH contracts in certain circumstances. The effective date of this provision was September 1, 2005 (or FY 2006). Essentially, for FY 2006, the provision required that for any agency from whom case referrals had been received during the three preceding years (FYs 2003- 2005), and for whom complete information about the agency's hourly usage is available, the interagency contract executed was to include a lump sum payment to SOAH on September 1, 2005. However, if complete information was not available, or information upon which to reasonably base a lump sum advance payment to SOAH was not provided, then an interagency contract based on SOAH's authorized hourly rate, and the agency's actual usage of SOAH services, was to be entered. SOAH has done this in FY 2006.

Currently, 20 state agencies or governmental entities (excluding contract claim referrals under Tex. Gov't Code Ann. Chapter 2260) contract with SOAH for hearing services. For 15 of those agencies, the three-year (FYs 2003-2005) historical usage does not provide complete information upon which to base a lump sum advance payment to SOAH. This is because these agencies either: have not referred work to SOAH during this three-year period; are new or consolidated agencies without established referral histories; expressed doubt that any work would be referred during the fiscal year; no longer exist as separate entities; or are agencies who voluntarily refer cases (i.e., they are not statutorily required to use SOAH's services). For these reasons, interagency contracts including hourly billing for actual services provided rather than lump sum payments to SOAH were entered, in accordance with Section 2003.024(a-2) of the Government Code.

For two other contract agencies—the Texas Commission on Environmental Quality and the Texas Department of Insurance Division of Workers' Compensation—contract requirements are expressly addressed in SOAH appropriation riders 4 and 10(b), respectively, for the FY 2006-07 biennium, and the general Government Code provision does not apply. The three remaining contract agencies—the Department of Family and Protective Services, Board of Public Accountancy (semi-independent agency), and Health and Human Services—have referred work to SOAH during each of the prior three years. However, a declining referral pattern for one, and scattered or fluctuating referrals by the others from one year to the next,

indicated that hourly billing rather than lump sum advance payments was in the best interest of these agencies and SOAH (i.e., the agencies only pay for the services actually provided by SOAH, and SOAH avoids the budget instability created by uncertainties regarding whether refunds will be required at year end). We also believe this approach is consistent with the Government Code provisions in that the absence of reliable usage patterns indicates that “complete information” is not available.

For reasons discussed above, SOAH anticipated that hourly billing contracts would continue to be used in FY 2006, rather than lump sum advance payments, and reported this in the compliance report on SOAH’s implementation of S.B. 1147–SOAH’s Sunset Bill in which the Government Code requirement was adopted. SOAH was not, however, informed that continuing with this approach would be inconsistent with the Government Code provisions. Although SOAH believes its actions are consistent with Government Code requirements, SOAH will establish procedures to more clearly demonstrate compliance and/or seek modification of the requirements.

Recommendation: Actively oversee its contract management process to ensure that contracts and contract amendments are executed in a timely manner and that amounts billed are consistent with contract provisions.

Management agrees with this recommendation.

*Person responsible: Chief Administrative Law Judge and General Counsel
Completion date: Effective immediately and ongoing.*

Recommendation: Centralize contract management policies and procedures.

Management agrees with this recommendation.

*Person responsible: Chief Administrative Law Judge and General Counsel
Completion date: September 1, 2006*

Recommendation: Establish contracts or agreements for all client agencies to which services are to be provided through interagency contracts.

Management agrees with this recommendation.

*Person responsible: Chief Administrative Law Judge and General Counsel
Completion date: Effective immediately and ongoing.*

Recommendation: Monitor billing rates and ensure those rates are consistent with contract provisions

Management agrees with this recommendation.

(Additionally, SOAH will credit (or refund to) the Edwards Aquifer Authority the overcharged amount.)

*Person responsible: Chief Administrative Law Judge and General Counsel
Completion date: Effective immediately and ongoing.*

The Office Does Not Consistently Follow Its Policies and Procedures for Billing Client Agencies

While there are significant issues regarding the information in the Office's TimeSlips System (discussed in Chapter 1), the Office has implemented an extensive manual review process to ensure the accuracy of its billing statements. However, based on testing results, auditors determined that the Office does not consistently follow this review process. As a result, billing errors could occur that would not be detected in a timely manner.

We selected \$170,000 (17 percent) of the \$1 million in client agency billings from September 2004 to March 2006 and tested internal controls and the accuracy of billing amounts. We did not identify any errors in amounts on billing statements. However, of the 23 billing statements reviewed, we identified 15 (65 percent) instances in which the Office did not follow its manual processes. These instances related to the Office's review and approval processes for travel vouchers, billing statements, and accounting entries. Specifically:

- Three of the travel vouchers associated with the billing statements we tested did not include evidence of review by the travel coordinator. The Office's policies and procedures require this review.
- Thirteen (56.5 percent) of the 23 billing statements we tested did not include evidence that the general ledger accountant reviewed these billing statements. The Office's policies and procedures require this review.
- Three (13.04 percent) of the 23 pre-bill worksheets detail we reviewed did not agree with the amounts on the billing statements. In one case, this resulted in a billing statement specifying an erroneous number of contract claims hours (however, the total amount billed was correct). The Office's policies and procedures require that billing statements be reviewed for errors and consistent form and that these statements should be mailed only after they are acceptable.
- There was no evidence of the budget analyst's review for 3 (14.29 percent) of the 21 billing entries in MIP (the Office's internal accounting system), as required by the Office's policies and procedures. As a result, we identified two instances in which the transaction description for November billings was incorrectly entered into MIP as December billings. The transaction description for December billings also was entered incorrectly into MIP as January billings.

We also reviewed the Office's fiscal year 2005 methodology for monitoring agencies' compliance with Riders 5 and 8 (page VIII-6, the General Appropriations Act, 78th Legislature). (See Appendix 4 for those riders.) We

determined that the Office's methodology was appropriate and verified that the Office billed the appropriate rate to agencies that exceeded their workloads.

Recommendation

The Office should consistently follow its policies and procedures to ensure accountability and accuracy of billing information.

Management's Response

Management agrees with this recommendation.

Person responsible: Chief Operating Officer and Travel Coordinator

Completion date: Effective immediately and ongoing.

The Office Complies with its Rules of Practice and Procedures in the Texas Administrative Code

Although we could not establish the reliability of information in the Case Management System (see Chapter 1), we selected and tested a sample of general docket cases. Auditors determined that, for those cases, the Office complied with its rules of practice and procedures in the Texas Administrative Code.

We tested the sample of general docket cases to determine whether:

- The Office scheduled general docket cases according to the dates provided by the client agency.
- The Office provided client agencies with confirmations of the cases being scheduled.
- Hearing dates were consistent with the dates provided on the general docket.

In addition, our testing did not identify any instances in which the Office gave preference to any of the cases we reviewed.

See Appendix 5 for a summary of the number of administrative law judges and cases from fiscal year 2001 through 2005.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The audit objectives were to determine whether the State Office of Administrative Hearings (Office):

- Produces accurate billing statements in accordance with client agencies' contracts or agreements.
- Complies with rules of practice and procedures in the Texas Administrative Code and its Administrative Law Judge Code of Conduct to ensure that cases are initiated, processed, and scheduled objectively and within standards.

Scope

The audit scope included the information systems and processes and procedures for client agency billing and docketing for non-administrative license revocation cases. Administrative license revocation cases were not reviewed.

The audit scope covered billing and docketing from September 2005 through March 2006.

Methodology

The audit methodology included collecting information and documentation; analyzing and evaluating data; performing selected tests and other procedures; and conducting interviews with Office hearing staff and management.

Information collected and reviewed included the following:

- Non-administrative license revocation (ALR) case files
- Accounts receivable transactions
- Billing statements
- TimeSlips and MIP security profiles
- Billing and docketing policies and procedures
- The Office's computer security manual

Procedures and tests conducted included the following:

- Analytical tests of accounts receivable data, including verification of billing statements and timesheet documentation, reviews of sign-offs, and reviews of the appropriateness of billed and unbilled amounts.
- Review of case files to identify:
- Accuracy of data entry
- Compliance with docketing policies and procedures
- Review and evaluation of access to TimeSlips and MIP

Criteria used included the following:

- Texas Government Code, Section 2003.024
- Various client agencies' contracts/agreements
- Docketing and general case procedures
- Title 1, Texas Administrative Code, Section 202.25(3)(A)
- Administrative Law Judge Code of Conduct

Project Information

Audit fieldwork was conducted from May 2006 through July 2006. This audit was conducted in accordance with generally accepted government auditing standards.

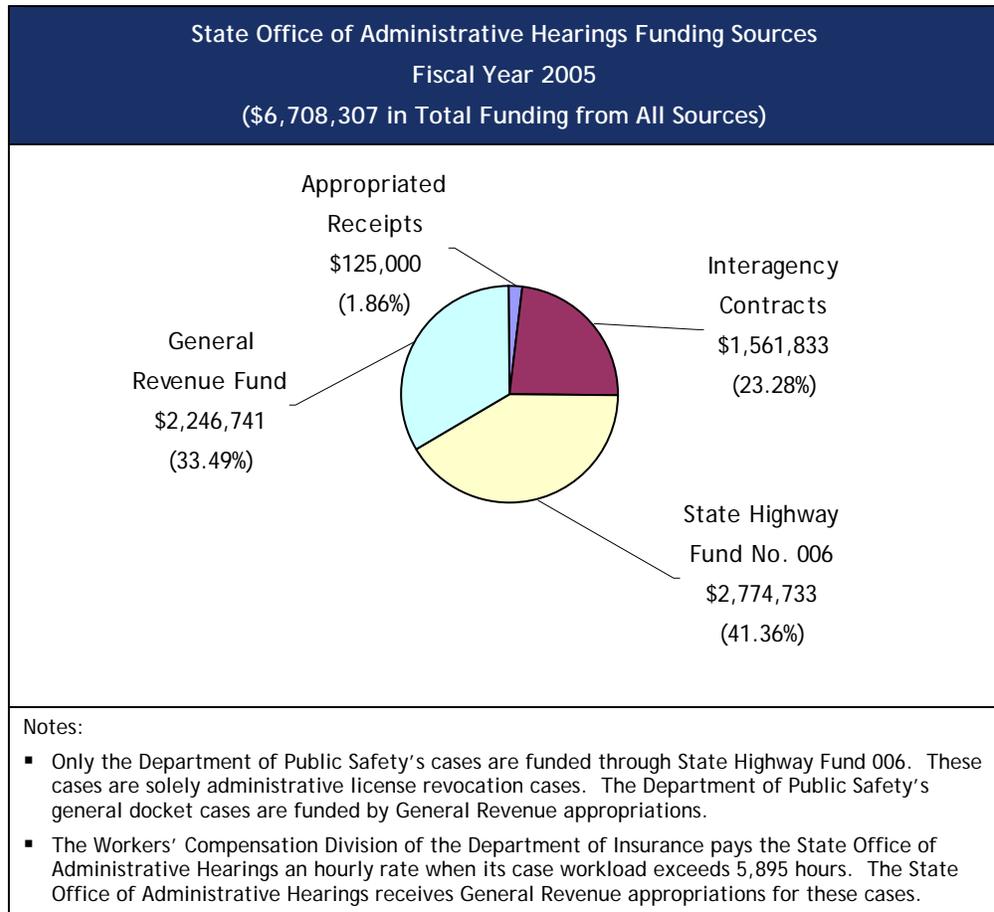
The following members of the State Auditor's staff performed the audit:

- Courtney Ambres-Wade, CGAP (Project Manager)
- Pamela A. Bradley, CPA
- Claudia Pena
- Katrina M. Schlue
- Bill Vanecek
- Michael Yokie, CISA
- J. Scott Killingsworth, CIA, CGFM (Quality Control Reviewer)
- Mike Apperley, CPA (Assistant State Auditor)
- Lisa R. Collier, CPA (Audit Manager)

Funding Methodology and Caseload for the State Office of Administrative Hearings

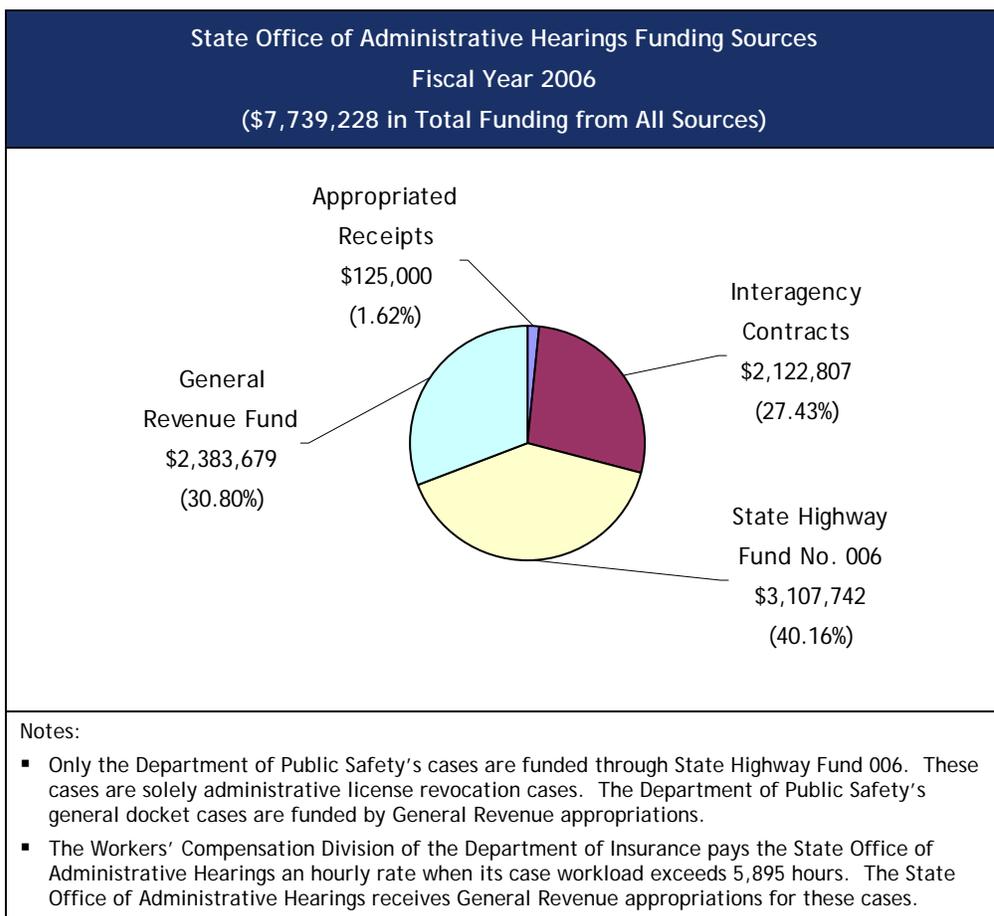
Figures 1 and 2 present information on funding sources for the State Office of Administrative Hearings (Office) for fiscal years 2005 and 2006

Figure 1



Source: General Appropriations Act (78th Legislature)

Figure 2



Source: General Appropriations Act (79th Legislature)

Table 2 presents unaudited information from the Office's Hearings Activity Report (HARP report). By May 1 and November 1 of each fiscal year, the Office is required to submit to the Legislative Budget Board and the Governor a report detailing hearings activity conducted during the prior two fiscal year quarters.

Table 2

Agency Caseload from Hearings Activity Report September 1, 2005, through February 28, 2006			
Agency	Hours Worked ^a	Total Number of Cases Worked ^b	Cost to the Office ^c
Aging and Disability Services, Texas Department of	362.5	51	\$ 45,976.88
Agriculture, Texas Department of	20.7	8	2,542.42
Alcoholic Beverage Commission, Texas	960.7	214	117,999.27
Animal Health Commission	0	0	0.00
Architectural Examiners, Texas Board of	11.9	2	1,461.58
Assistive and Rehabilitative Services, Texas Department of	0.0	0	0.00
Attorney General, Office of the - Child Support	175.5	225	22,205.28
Building and Procurement, Texas	2.6	1	319.34
Chiropractic Examiners, Texas Board of	2.7	2	331.62
Credit Union Department	0	0	0.00
Dental Examiners, Texas Board of	58.8	11	7,221.94
Education Agency, Texas	151.1	26	18,558.42
Educator Certification, State Board for	77.2	23	9,475.72
Edwards Aquifer Authority	69.9	1	8,585.26
Employees Retirement System of Texas	969.5	73	119,609.87
Environmental Quality, Texas Commission on	3,664.7	257	451,849.61
Examiners of Psychologists, Texas State Board of	113.1	3	13,891.18
Family and Protective Services, Texas Department of	461.5	36	56,777.32
Fire Fighters' Pension Commissioner, Office of the	115.5	2	14,185.95
Fire Protection, Texas Commission on	0	0	0.00
Funeral Service Commission, Texas	1.4	1	171.95
General Land Office, Texas	3	1	368.47
Health and Human Services Commission, Texas	19.7	5	2,419.60
Health Services, Texas Department of State	119.5	16	14,677.24
Higher Education Coordinating Board, Texas	0	0	0.00
Housing and Community Affairs, Texas Department of	11.1	7	1,357.18
Insurance, Texas Department of	6,179.4	1092	759,415.09
Insurance, Texas Department of - Workers' Compensation Commission Division	0	0	0.00
Law Enforcement Office Standards and Education, Texas Commission on	43.0	16	5,281.35
License and Regulation, Texas Department of	467.4	84	57,400.90
Lottery Commission, Texas	143.5	193	17,624.97

Agency Caseload from Hearings Activity Report
September 1, 2005, through February 28, 2006

Agency	Hours Worked ^a	Total Number of Cases Worked ^b	Cost to the Office ^c
Medical Examiners, Texas State Board of	687.8	69	84,477.03
Nurse Examiners, Texas Board of	320.8	83	39,401.33
Optometry Board, Texas	0.0	0	0.00
Parks and Wildlife Department, Texas	0	0	0.00
Pharmacy, Texas State Board of	20.2	7	2,481.01
Physical Therapy and Occupational Therapist Examiners, Executive Council of	0	0	0.00
Plumbing Examiners, Texas State Board of	180.1	28	22,244.12
Podiatric Medical Examiners, Texas Board of	0	0	0.00
Professional Engineers, Texas Board of	0	0	0.00
Professional Geoscientists, Texas State Board of	0	0	0.00
Professional Land Surveying, Texas Board of	0	0	0.00
Public Accountancy, Texas State Board of	36.9	37	4,532.14
Public Safety, Texas Department of	15,533	69	1,983,552.26
Public Utility Commission of Texas	1,779.0	53	218,500.49
Racing Commission, Texas	25.1	3	3,078.74
Real Estate Commission, Texas (Appraiser Licensing and Certification Board)	42.1	3	5,164.67
Residential Construction Commission, Texas	37.2	13	4,562.84
Secretary of State, Texas	19.2	1	2,358.18
State Securities Board, Texas	4.3	3	528.13
Structural Pest Control Board, Texas	45.1	7	5,539.28
Tax Professional Examiners, State Board of	0	0	0.00
Teacher Retirement System of Texas	88.9	8	10,912.74
Transportation, Texas Department of	88.4	45	10,851.33
University of Texas Southwest Medical Center- Dallas	45.5	1	5,582.26
Veterinary Medical Examiners, Texas State Board of	0	0	0.00
Water Development Board, Texas	0	0	0.00
Workforce Commission, Texas	0.4	1	49.13
Youth Commission, Texas	13.0	1	1,596.69
Totals	33,172.9	2782	\$4,155,120.78

- ^a Hours worked reflects the total amount of administrative law judge time directly attributable to work on the referring agency's cases. (By agreements with some referring agencies, this total may include time billed by paralegals at one-half the administrative law judge rate for work on cases.)
- ^b Total number of cases worked reflects the total number of cases for the Office upon which some work was performed by administrative law judges during the reporting period.
- ^c Cost to the Office summarizes the total direct and indirect costs the Office incurred.

Source: Unaudited information from the State Office of Administrative Hearings.

***Texas Government Code, Section 2003.024, Interagency Contracts;
Anticipated Hourly Usage and Cost Estimates***

2003.024. INTERAGENCY CONTRACTS; ANTICIPATED HOURLY USAGE AND COST ESTIMATES. (a) If a state agency referred matters to the office during any of the three most recent state fiscal years for which complete information about the agency's hourly usage is available and the costs to the office of conducting hearings and alternative dispute resolution procedures for the state agency are not to be paid by appropriations to the office during a state fiscal biennium, the office and the agency shall enter into an interagency contract for the biennium under which the referring agency pays the office, at the start of each fiscal year of the biennium, a lump-sum amount to cover the costs of conducting all hearings and procedures during the fiscal year. The lump-sum amount paid to the office under the contract must be based on:

(1) an hourly rate that is set by the office in time for the rate to be reviewed by the legislature as part of the legislature's review of the office's legislative appropriations request for the biennium; and

(2) the anticipated hourly usage of the office's services by the referring agency for each fiscal year of the biennium, as estimated by the office under Subsection (a-1).

(a-1) Before the beginning of each state fiscal biennium, the office shall estimate for each fiscal year of the biennium the anticipated hourly usage for each state agency that referred matters to the office during any of the three most recent state fiscal years for which complete information about the agency's hourly usage is available. The office shall estimate an agency's anticipated hourly usage by evaluating:

(1) the number of hours spent by the office conducting hearings or alternative dispute resolution procedures for the state agency during the three most recent state fiscal years for which complete information about the agency's hourly usage is available; and

(2) any other relevant information, including information provided to the office by the state agency, that suggests an anticipated increase or decrease in the agency's hourly usage of the office's services during the state fiscal biennium, as compared to past usage.

(a-2) If a state agency did not refer matters to the office during any of the three state fiscal years preceding a state fiscal biennium for which complete information about the agency's hourly usage would have been available and did not provide information to the office sufficient for the office to reasonably and timely estimate anticipated usage and enter into a contract with the agency

before the start of the state fiscal biennium, and the costs to the office of conducting hearings and alternative dispute resolution procedures for the state agency are not paid by appropriations to the office for the state fiscal biennium, the referring agency shall pay the office the costs of conducting hearings or procedures for the agency based on the hourly rate that is set by the office under Subsection (a) and on the agency's actual usage of the office's services.

(b) If the costs to the office of conducting hearings and alternative dispute resolution procedures for a state agency that refers matters to the office are anticipated to be paid by a lump-sum appropriation to the office for a state fiscal biennium, the office shall timely provide to the legislature the information described by Subsection (c).

(c) Each state fiscal biennium, the office as part of its legislative appropriation request shall file:

(1) information, as estimated under Subsection (a-1), related to the anticipated hourly usage of each state agency that refers matters to the office for which the costs of hearings and alternative dispute resolution procedures are anticipated to be paid by appropriations to the office; and

(2) an estimate of its hourly costs in conducting each type of hearing or dispute resolution procedure. The office shall estimate the hourly cost based on the average cost per hour during the preceding state fiscal year of:

(A) the salaries of its administrative law judges;

(B) the travel expenses, hearing costs, and telephone charges directly related to the conduct of a hearing or procedure; and

(C) the administrative costs of the office, including docketing costs and the administrative costs of the division of the office that conducts the hearing or procedure.

(d) This section does not apply to hearings conducted:

(1) by the natural resource conservation division or the utility division; or

(2) under the administrative license revocation program.

General Appropriations Act (78th Legislature), Riders 5 and 8

Below are Riders 5 and 8, from page VIII-6, the General Appropriations Act (78th Legislature).

Rider 5. Contingency Appropriation for Expanded Jurisdiction. Contingent on the enactment of legislation by the Seventy-eighth Legislature transferring the hearings functions of other state agencies to the State Office of Administrative Hearings (SOAH), or otherwise expanding the jurisdiction of the office, SOAH is hereby authorized to expend funds transferred to the office from those agencies or funds appropriated for the purpose of handling the expanded jurisdiction, pursuant to provisions elsewhere in this Act. Appropriations authorized pursuant to this provision may be expended only to implement the transferred functions or expanded jurisdiction. All funds collected by SOAH as payment for, or reimbursement of, the office's costs of providing services to other state agencies or governmental entities, or others as directed by the Legislature, are appropriated to SOAH for its use during the biennium.

Rider 8. Billing Rate for Excess Workload. Contingent on the referral of unanticipated levels of work by any agency for which the State Office of Administrative Hearings (SOAH) provided service during the 2002–03 biennium, SOAH is authorized to bill that agency at a rate of \$90 per hour for each hour of work performed during each fiscal year of the biennium that exceeds by ten percent that agency's annual base allowance (hours) for 2002-03. This rider applies only to agencies that have hearing costs paid through an appropriation of General Revenue to SOAH based upon hearing costs from previous fiscal years. The following agencies are not subject to this rider:

- (1) Board of Public Accountancy
- (2) Appraisal Certification and Licensing Board
- (3) Board of Architectural Examiners
- (4) Board of Barber Examiners
- (5) Board of Chiropractic Examiners
- (6) Cosmetology Commission
- (7) Credit Union Department
- (8) Board of Dental Examiners
- (9) Board of Professional Engineers
- (10) Funeral Service Commission

- (11) Board of Professional Geoscientists
- (12) Board of Professional Land Surveying
- (13) Board of Medical Examiners
- (14) Board of Nurse Examiners
- (15) Board of Vocational Nurse Examiners
- (16) Optometry Board
- (17) Structural Pest Control Board
- (18) Board of Pharmacy
- (19) Executive Council of Physical and Occupational Therapy Examiners
- (20) Board of Plumbing Examiners
- (21) Board of Podiatric Medical Examiners
- (22) Board of Examiners of Psychologists
- (23) Board of Tax Professional Examiners
- (24) Board of Veterinary Medical Examiners

Number of Administrative Law Judges and Caseload

Table 3 presents information on the number of administrative law judges and caseload for fiscal years 2001 through 2005.

Table 3

Administrative Law Judges and Caseload Fiscal Years 2001 through 2005				
Fiscal Year	Number of Administrative Law Judges	Number of Cases Received	Number of Cases Worked	Number of Cases Disposed
2001	59	21,480	21,549	21,122
2002	60	22,914	23,544	22,635
2003	58	26,440	27,656	24,975
2004	57	31,829	32,821	29,352
2005	57	35,819	37,091	35,012

Source: Unaudited information from the State Office of Administrative Hearings.

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 Thomas “Tommy” Williams, Member, Texas Senate
The Honorable Jim Pitts, House Appropriations Committee
The Honorable Jim Keffer, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

State Office of Administrative Hearings

The Honorable Shelia Bailey Taylor, Chief Administrative Law Judge



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