

INTERNAL AUDIT OF THE
OPEN RECORD REQUESTS

AT THE
TEXAS ANIMAL HEALTH COMMISSION

(REPORT NO: TAHC 2020-003)



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CERTIFIED PUBLIC ACCOUNTANTS AND ADVISORS



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Audit Committee
and Commissioners
Texas Animal Health Commission
Austin, Texas

We have conducted an internal audit (audit) of the Open Record Requests at the Texas Animal Health Commission (Commission) with respect to the reliability and integrity of information, compliance with rules, policies, procedures, laws, and regulations, safeguarding of assets, economical and efficient use of resources, and accomplishment of established objectives and goals for operations as of December 7, 2020.

The results of our tests disclosed that the Commission has developed to ensure reliability and integrity of information, compliance with rules, policies, procedures, laws, and regulations, safeguarding of assets, economical and efficient use of resources, and accomplishment of established objectives and goals for operations. However, we noted an opportunity to improve the established processes.

The report that accompanies this letter summarizes our comments.

We appreciate the courtesy and cooperation the management of the Commission showed during the course of the engagement.

Monday Rufus & Co., P.C.

December 7, 2020
Austin, Texas

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Executive Summary

The Texas Animal Health Commission (TAHC) was founded in 1893 with a mission to address the Texas fever tick problem. Today, TAHC works to protect the health of all Texas livestock, including cattle, swine, poultry, sheep, goats, equine family animals, exotic livestock.

The Commission's enabling statutes are in Chapters 161 through 168 of the Texas Agriculture Code, Vernon's Annotated Texas Statutes. Title 4 of the Texas Occupations Code designated the Texas Animal Health Commission (TAHC) as the primary state agency with legislative authority to make and enforce regulations to prevent, control, and eradicate specific infectious animal diseases which endanger livestock.

Texas Government Code, Chapter 552, gives the public the right to access government records. An officer for the public information and officer's agency may not ask the reason for the request of records. Ideally, all government records are considered public and available when requested. However, there are certain exceptions may be applicable to the disclosure of information. For example, information that is confidential by laws, either constitutional, statutory, or by judicial decision may not released when requested. Barring any exceptions, a government agency is required to promptly release the requested information.

Requesters of open records have the right to the following:

- Prompt access to information that is not considered confidential or otherwise protected.
- Receive treatment equal to all other requesters, including accommodation in accordance with the American with Disabilities Act (ADA) requirements.
- Receive certain kinds of information without exceptions.
- Receive written statement of estimated charges, when charges will exceed a certain amount, in advance of work being started and opportunity to modify the request in response to the itemized statement.
- Choose whether to inspect the requested information (most often at no charge), receive copies of the information or both.
- A waiver or reduction of charges if the government body determines that access to the information primarily benefits the general public.
- Receive a copy of the communication from the government body asking the Office of the Attorney General for a ruling on whether the information can be withheld under one of the accepted exceptions, or if the communication discloses the requested information, a redacted copy.
- Lodge a written complaint about over charges for public information with the Office of the Attorney General. Other complaints may also be filed with the county or district attorney of the county where the government body, other than a stated, is located. If the complaint is against the county or district attorney, the complaint must be field with the Office of the Attorney General.

Some of the TAHC's records that are considered public information include herd certifications, financial documents, notices of quarantine and holder orders, applications to register, and business correspondence. The Legal and Compliance Division is responsible for processing Open Record Requests received by the TAHC.

Internal Audit Results

There is a process for receiving Open Records. A request can come in by mail, fax, or email. The TAHC has established a Public Information Policy that is consistent with Texas Government Code, Chapter 552, and has made it available on the Agency's website. The policy includes the Rights of the Requesters, Responsibilities of the TAHC, as a governmental body, Information to be Released, Costs of Records, and Information that may be withheld due to an exception.

The TAHC can improve its processes by updating its current open records policy and institute a process for periodic reviews to ensure established procedures are still valid. Additionally, the Commission should consider developing a checklist for open record requests to ensure consistency in processing those requests.

Any insignificant issues noted have been communicated to the management of the Commission as required by *Government Auditing Standards*.

Summary of Management's Response

The Commission is in the final stages of updating its open records policy and developing a checklist to ensure consistency in processing requests. The Commission will review this policy and checklist in August 2021 following the close of the 87th Texas Legislative session and subsequent reviews will be every two years thereafter. The bi-annual review will ensure the Commission's open records policies and procedures are updated and consistent with any changes to Texas Government Code, Chapter 552.

Objectives and Results

The primary objectives of the internal audit were:

1. Reliability and Integrity of Information
2. Compliance with Policies, Procedures, Laws, and Regulations
3. Safeguarding of Assets
4. Economical efficient use of resources
5. Accomplishment of established objectives and goals for operations

RESULTS

Internal Audit Objective 1: Reliability and Integrity of Information.

There is a process for receiving Open Records. A request can be come in by mail, fax, or email. Each request is initially forwarded to the Legal and Compliance Department for processing, specifically to the TAHC's General Counsel and Legal Assistant.

The TAHC has established a Public Information Policy that is consistent with Texas Government Code, Chapter 552, and has made it available on the Agency's website. The policy includes the Rights of the Requesters, Responsibilities of the TAHC, as a governmental body, Information to be Released, Costs of Records, and Information that may be withheld due to an exception.

The information is entered into the Agency's database and protected via password. Data is also encrypted at rest using an encryption software and password. Access to data is limited to authorized employees on a need-to-know basis. Data is backed up and stored at an offsite location.

Internal Audit Objective 2: Compliance with Policies, Procedures, Laws, and Regulations.

The TAHC has established a Public Information Policy that is consistent with Texas Government Code, Chapter 552, and has made it available on the Agency's website.

Internal Audit Objective 3: Safeguarding of Assets.

The TAHC's procedures for Open Record Requests should be improved to ensure adequate safeguarding of assets.

Internal Audit Objective 4: Economical and Efficient Use of Resources

Finding 1: Update Open Record Policies and Procedures.

Criteria:

Open Record Policies and Procedures should be updated to ensure consistency, efficient use of resources, compliance with rules and regulations, and promotion of accountability.

Condition:

We noted that the TAHC's policies and procedures for processing Open Record Requests are outdated. The current policies and procedures were implemented March 26, 2007. But current processes are not fully aligned with the established written policies and procedures. For example, the current policies and procedures categorized open records into three categories: routine, personnel records, and discretionary. Routine requests can be processed by the TAHC employee who receives the request or may be forwarded to another employee if the recipient of the request does not have access to the requested records. Based on inquiries of management and review of written information obtained, the Legal and Compliance Division of the TAHC is responsible for processing all open record requests.

Additionally, the TAHC's procedures requires charging \$15 per hour for staff time "for 50 pages or less of readily available information" and "20 percent of total personnel charges" for overhead. But there is no definition of "readily available information" or any other information clarifying and conveyed to the requestor about expected charges when the number of pages failed to meet the established threshold. We noted an instance where the number of pages was less than 50 but the requestor was billed for staff time. However, there were no overhead charges.

Cause:

There are no established processes to ensure periodic update of the policies and procedures, especially when there are significant changes. Additionally, there are no procedures for ensuring consistency in the application of the established policy.

Effect:

Due to the lack of updated policies and procedures, there is a risk of inconsistent processing of open record requests, noncompliance with rules and regulations, inefficient use of resources, and a failure to hold staff accountable.

Recommendation:

The Commission should update its current open records policy and institute a process for periodic reviews to ensure established procedures are still valid. Additionally, the Commission should consider developing a checklist for open record requests to ensure consistency in processing those requests.

Management's Response:

The Commission is in the final stages of updating its open records policy and developing a checklist to ensure consistency in processing requests. The Commission will review this policy and checklist in August 2021 following the close of the 87th Texas Legislative session and subsequent reviews will be every two years thereafter. The bi-annual review will ensure the Commission's open records policies and procedures are updated and consistent with any changes to Texas Government Code, Chapter 552.

Responsible Person for implementation: Mary Luedeker, General Counsel

Completion Date: On or before February 1, 2021

Internal Audit Objective 5: Accomplishment of Established Objectives and Goals for Operations

The TAHC has established a Public Information Policy that is consistent with Texas Government Code, Chapter 552, and has made it available on the Agency's website. However, procedures should be improved to ensure accomplishment of established objectives and goals for operations.

Appendix 1

Objective and Scope, and Methodology

Objective

The primary objective of the audit was to evaluate the following:

- *Reliability and Integrity of Information*
- *Compliance with Policies, Procedures, Laws, and Regulations*
- *Safeguarding of Assets*
- *Economical and Efficient use of Resources*
- *Accomplishment of Established Objectives and Goals for Operations*

Scope

The audit scope of the internal audit work included ensuring reliability and integrity of information, compliance with rules, policies, procedures, laws, and regulations, safeguarding of assets, economical and efficient use of resources, and accomplishment of established objectives and goals. The scope included interviews with the appropriate staff of the Legal and Compliance Division, review of pertinent documents and testing for accuracy and compliance.

Methodology

Obtained an understanding of the processes over Open Record Requests, performed a risk assessment to determine the risk of noncompliance with laws, rules, and regulation and identified controls which are in place.

Data Reliability and Completeness

We obtained an understanding of the automated controls and determined that information systems were not a critical part of the Open Record Requests. Information is received and entered into a database system. The automated system assign number to each request prior to being processed. To ensure reliability, validity, and completeness of the data, we gained an understanding of logical access and general controls and assessed those controls as appropriate.

Sampling Methodology

There were 49 Open Record Requests in Fiscal Year 2019. We randomly selected a sample of 10 and tested for the relevant attributes. That sample size was not necessarily a representative of the population as the intent was not to project test results to the population.

Information collected and reviewed included the following:

- Internal Audit Plan for Fiscal Years 2019 - 2020
- Agency's Public Information Policy dated March 26, 2007
- Texas Government Code, Chapter 552
- Office of the Attorney General of Texas - Public Information *Handbook* 2020
- Open Record Requests obtained from the Agency's Website
- A list of Open Record Requests
- Completed Data Control Questionnaire
- Supporting documentation for requests and responses
- Information Security Policy Manual
- Server Patch Procedures
- External Network Penetration Test and Web Application Vulnerability Scan performed in FY 2020
- General Appropriation Act (FY 2020-2021)
- Server Patch Schedules
- Texas Animal Health Commission Website

Procedures and tests conducted included the following:

- Interviewed the appropriate staff of the Commission to obtain an understanding of the processes for Open Record Requests.
- Obtained, reviewed, and tested a sample of Open Record Requests received and processed in Fiscal Year 2019, and obtained the supporting documentation.
- Reviewed Texas Government Code, Chapter 552
- Reviewed the Agency's Public Information Policy dated March 26, 2007
- Reviewed the Open Record Requests from the Agency's Website
- Reviewed the responses to the Data Control Questionnaire
- Reviewed the results of the External Network Penetration Test and Web Application Vulnerability Scan performed in Fiscal Year 2020
- Reviewed Patch Schedules
- Assessed the accuracy and reliability of information entered into the Open Record Requests Database.
- Obtained and selected and tested a random sample of Open Record Requests and tested for relevant attributes.

Criteria Used included the following:

- Chapter 552, Texas Government Code
- Texas Animal Health Commission Intranet Policies and Procedures
- Office of the Attorney General of Texas - Public Information *Handbook* 2020
- Review of other pertinent reports and documents

Other Information

Our internal audit was conducted 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 internal audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our internal audit objectives. Our internal audit also conforms with the Institute of Internal Auditor's (IIA) *International Standards for the Professional Practice of Internal Auditing*.

Appendix 2

Background

In 1893, the agency was created to combat the fever tick that plagued the Texas cattle industry. Since then, the Texas Animal Health Commission (Commission) and the United States Department of Agriculture (USDA) have worked cooperatively with livestock producers on animal health issues. In recent years, the agency's primary objectives have been to control and eradicate livestock diseases, such as: Brucellosis in cattle and swine; tuberculosis in cattle; goats and cervidae; hog cholera in swine; pseudorabies in swine; scabies in cattle and sheep; Venezuelan equine encephalomyelitis (VEE); and equine infectious anemia (EIA) in horses.

The Commission's enabling statutes are in Chapters 161 through 168 of the Texas Agriculture Code, Vernon's Annotated Texas Statutes. The Commission is vested with the responsibility of protecting all livestock, domestic animals, and domestic fowl from diseases stated in the statute, or recognized as maladies by the veterinary profession. The Commission is authorized to act to eradicate or control any disease or transmission of any disease that affects livestock, exotic livestock, domestic animals, domestic fowl, exotic fowl, or canines, regardless of whether or not the disease is communicable. In order to carry out these duties and responsibilities, the Commission is authorized to control the sale and distribution of all veterinary biologics, except rabies vaccine; regulate the entry of livestock, domestic animals, and domestic fowl into the state; and control the movement of livestock.

To carry out its mission, the Commission is supported by the veterinary community, competent laboratory system and epidemiology activities which oversee the diagnosis of diseases, and assures appropriate tracing of the movement of exposed and infected animals to determine the origin of infection and minimize the transmission of disease.

The Commission is composed of thirteen members who are appointed by the Governor with the advice and consent of the Senate. The Governor designates the Chair.

The Commissioners appoint an Executive Director who supervises the Commission's activities. The Commission's operating budget is prepared and approved by the Commissioners on an annual basis, whereas the State legislative appropriation request is determined every two years. Both the budget and appropriations are reviewed and approved by the State Legislature.

Appendix 3

Report Distribution

As required by Gov't Code 2102.0091 copies of this report should be filed with the following:

Governor's Office of Budget and Planning

Attn: John Colyandro
Phone: (512) 463-1778
Budgetandpolicyreports@governor.state.tx.us

Legislative Budget Board

Attn: Christopher Mattsson
Phone: (512) 463-1200
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