

# FINANCE COMMISSION OF TEXAS

## AUDIT COMMITTEE MEETING

Friday, August 20, 2021

8:30 a.m.

Via Webinar

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**Due to Governor Greg Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, the August 20, 2021 meeting of the Finance Commission of Texas will be held via webinar/telephonic conference call, as authorized under Texas Government Code section 551.125.**

Members of the public who would like to participate in this meeting will need to register at [www.fc.texas.gov](http://www.fc.texas.gov) or at <https://attendee.gotowebinar.com/register/921596768593458957>. An electronic copy of the agenda is now available at [www.fc.texas.gov](http://www.fc.texas.gov), and a copy of the meeting materials will be available on August 12, 2021 at [www.fc.texas.gov](http://www.fc.texas.gov). To access the recording visit [www.fc.texas.gov](http://www.fc.texas.gov) after August 20, 2021.

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*Public comment on any agenda item or issue under the jurisdiction of the Finance Commission of Texas agencies is allowed. Finance Commission members who are not members of the Audit Committee may be present at this committee meeting creating a quorum of the Finance Commission.*

- A. Review and Approval of the Minutes of the June 18, 2021 Audit Committee Meeting
- B. Review of Agencies' Activities
  - 1. Office of Consumer Credit Commissioner
  - 2. Department of Savings and Mortgage Lending
  - 3. Texas Department of Banking
- C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2021 Third Quarter Investment Officer Reports
  - 1. Office of Consumer Credit Commissioner
  - 2. Department of Savings and Mortgage Lending
  - 3. Texas Department of Banking
- D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Readoption of the Investment Policies for:
  - 1. Office of Consumer Credit Commissioner
  - 2. Department of Savings and Mortgage Lending
  - 3. Texas Department of Banking
- E. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2021 Third Quarter Financial Statements
  - 1. Office of Consumer Credit Commissioner
  - 2. Department of Savings and Mortgage Lending
  - 3. Texas Department of Banking
- F. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Fiscal Year 2022 Operating Budgets
  - 1. Office of Consumer Credit Commissioner
  - 2. Department of Savings and Mortgage Lending
  - 3. Texas Department of Banking

- G. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Office of Consumer Credit Commissioner's 2021 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates
- H. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Department of Savings and Mortgage Lending's 2021 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates
- I. Report on Activities Relating to the Texas Financial Education Endowment Fund

**NOTE: The Audit Committee of the Finance Commission of Texas may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.**

**Meeting Accessibility:** Under the Americans with Disabilities Act, the Finance Commission of Texas will accommodate special needs. Those requesting auxiliary aids or services should notify the Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 936-6222, as far in advance of the meeting as possible.

# MINUTES OF THE AUDIT COMMITTEE MEETING Friday, June 18, 2021

The Audit Committee of the Finance Commission of Texas convened at 8:36 a.m. on June 18, 2021 with the following members present:

**Audit Committee Members in Attendance (via webinar):**

Phillip Holt, Acting Chairman  
Hector Cerna  
Larry Long

New Finance Commission member Debbie Scanlon was also present at Audit Committee meeting but did not participate in the voting process.

Chairman Holt announced there was a quorum of the Audit Committee of the Finance Commission of Texas. *(1:56 on the audio file).*

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. Review and Approval of the Minutes of the April 16, 2021 Audit Committee Meeting	Larry Long made a motion to Approve the Minutes of the April 16, 2021 Audit Committee Meeting. Hector Cerna seconded and the motion passed.	2:18 start of discussion  2:36 Vote
B. Review of Agencies' Activities 1. Office of Consumer Credit Commissioner 2. Texas Department of Banking 3. Department of Savings and Mortgage Lending	No Action Required.	3:02 start of discussion
C. Discussion of 2022 Budget Process	No Action Required.	5:32 start of discussion
D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action to Reapprove the Internal Auditor Contract for Garza/Gonzalez & Associates for Fiscal Year 2022	Hector Cerna made a motion to recommend that the Finance Commission Reapprove the Internal Auditor Contract for Garza/Gonzalez & Associates for Fiscal Year 2022. Larry Long seconded and the motion passed.	6:40 start of discussion  7:52 Vote
E. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Texas Department of Banking's 2021 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates	Larry Long made a motion to recommend that the Finance Commission Approve the Texas Department of Banking's 2021 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates. Hector Cerna seconded and the motion passed.	8:29 start of discussion  19:14 Vote
F. Report on Activities Relating to the Texas Financial Education Endowment Fund	No Action Required.	19:49 start of discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
G. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Revised Texas Financial Education Endowment (TFEE) Fund Grant Administration & Advisory Policy Manual and 2022-2023 Funding Priorities	Hector Cerna made a motion to recommend that the Finance Commission Approve the Revised Texas Financial Education Endowment (TFEE) Fund Grant Administration & Advisory Policy Manual and 2022-2023 Funding Priorities. Larry Long seconded and the motion passed.	22:23 start of discussion  24:52 Vote
H. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action to Approve an Amount for the Upcoming 2022-2023 Grant Cycle for the Texas Financial Education Endowment (TFEE)	Larry Long made a motion to recommend that the Finance Commission Approve \$350,000 for the Upcoming 2022-2023 Grant Cycle for the Texas Financial Education Endowment (TFEE). Hector Cerna seconded and the motion passed.	25:37 start of discussion  31:41 Vote
I. Discussion of and Consultation on Security Audit, Possible Issue Related to Confidential or Sensitive Information, Security Breach Audit and Assessment, or Security Assessments or Deployment Related to Information Resources Technology as Authorized by Tex. Govt. Code Secs. 551.076 and 551.089	Deferred to Executive Session – no vote taken.	n/a

Chairman Phillip Holt called for an Executive Session at 9:08 a.m. (32:24 on the audio file). The open meeting resumed at 10:13 a.m. (33:41 on the audio file).

There being no further business of the Audit Committee of the Finance Commission of Texas, Chairman Holt adjourned the meeting at 10:13 a.m. (33:55 on the audio file).

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Phillip Holt, Acting Chairman, Audit Committee  
Finance Commission of Texas

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Charles G. Cooper, Executive Director  
Finance Commission of Texas

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Brenda Medina, Executive Assistant  
Finance Commission of Texas

**Office of Consumer Credit Commissioner**  
**Audit Activities Report**  
**as of 7/31/2021**

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<b>Auditor:</b>	<b>Audit Report Date:</b> May 20, 2021
Garza/Gonzales	

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**Audit Area:** Internal Audit – Fiscal Activities

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<b>Findings:</b> <i>The OCCC should update its travel policies and procedures to be consistent with current requirements and practices.</i>	<b>Status Update:</b> <i>On-going– The OCCC will update travel policies and procedures by August 31, 2021.</i>
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<b>Auditor:</b>	<b>Audit Report Date:</b> May 20, 2021
Garza/Gonzales	

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**Audit Area:** Internal Audit – Fiscal Activities

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<b>Findings:</b> <i>The OCCC should establish agency-wide guidance for justification of alternative travel methods, including those due to health concerns, to ensure employees perform this function in a uniform manner; to optimize a balance between conservation of state funds and employee impact; and, to promote a sense of fairness among travelers.</i>	<b>Status Update:</b> <i>On-going - The OCCC will establish guidance for justification of alternative travel methods by August 31, 2021.</i>
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<b>Auditor:</b> Department of Public Safety	<b>Audit Report Date:</b> Pending
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**Audit Area:** Non-Criminal Justice Audit: Licensing

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<b>Findings:</b> NA	<b>Status Update:</b> Pending
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## COOP Plan Evaluation Report

Texas Office of Consumer Credit Commissioner

**Conducted By:**

Heather Hernandez, Enterprise Risk Specialist, Continuity Planning



7/6/2021

Leslie Pettijohn  
Commissioner  
Texas Office of Consumer Credit Commissioner  
2601 North Lamar Blvd.  
Austin, TX 78610

Re: Continuity Plan Evaluation

Agency # 466

Dear Leslie Pettijohn,

The Texas Office of Consumer Credit Commissioner recently submitted your Continuity of Operations (COOP) Plan to the State Office of Risk Management (SORM) for review. We have completed our evaluation and have included our findings below. Pursuant to [Texas Labor Code § 412.054](#), SORM acts as an advisory partner to ensure your plan meets Federal Emergency Management (FEMA) and other relevant standards.

Continuity plans are living documents, intended to continuously grow and adapt as organizations evolve. Your COOP plan should ensure you continue mission essential functions should a disruptive event make it impossible to continue work as normal. This is achieved through routinely conducting testing, training, and exercises, then making improvements to the plan based on your findings. SORM serves Texas agencies through review of COOP plans and exercises, and by offering training and resources.

With these goals in mind, we have made the following observations recognizing your plan achievements over the past year and making recommendations about where continued growth and development could be most effective in the year to come.

Synopsis of Key Elements:

- Previous review of the Continuity Plan identified incomplete areas which have since been addressed, such as Recovery Time Objectives, a Business Process Analysis, and defining roles and responsibilities of key continuity personnel.
- The updated COOP plan thoroughly incorporated key issues and experiences learned during the COVID pandemic and the winter weather event in February 2020.

**Action Items for Follow-up (if any):**

- **The COOP plan provides an excellent overview of procedures but could expand on additional details.**
  - **Essential Functions and Records:** I recommend listing the location of MOUs with outside agencies for IT and facility's needs.
  - **Alternate Facilities:** The COOP plan notes that in the event of building failure (fire, tornado, etc.) The agency will contact TFC for a new location. After further discussion, it was determined that the agency will rely on telecommuting strategies as an alternate facility.
  - **Test, Training, & Exercise:** The outlines of the TT&E timeline and plans are provided. I



**recommend adding the location of a chart detailing the completed TT&E and other documentation of the process.**

SORM recommends the above option(s) for you to consider when conducting your annual plan update to help continue to strengthen your program. Additional refinements may be identified through disaster events, testing and exercises, and sharing of best practices with other professionals.

Please convey my appreciation to your continuity staff and all personnel who assisted in the completion of this year's submission. If you have questions or concerns regarding information detailed in this review, please feel free to reach out to me.

Your COOP exercise is due August 2022.

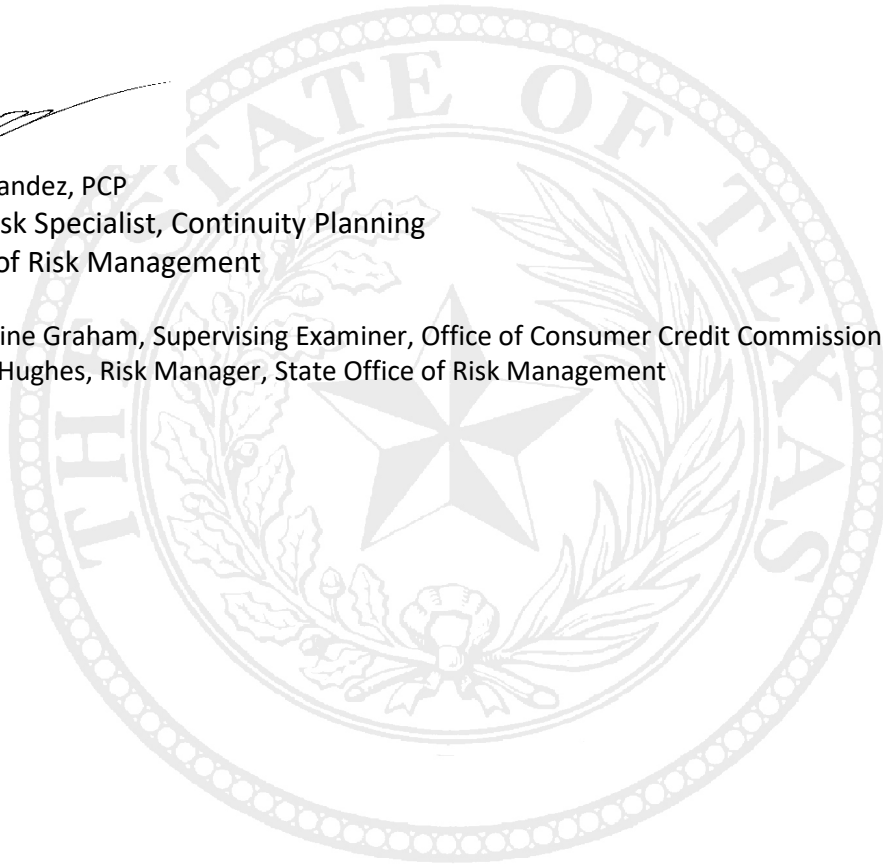
Your next COOP plan is due June 2023.

Respectfully,



Heather Hernandez, PCP  
Enterprise Risk Specialist, Continuity Planning  
State Office of Risk Management

cc: Christine Graham, Supervising Examiner, Office of Consumer Credit Commissioner  
Carly Hughes, Risk Manager, State Office of Risk Management





## **Department of Savings and Mortgage Lending**

### **Audit Activities Report as of July 31, 2021**

<b>Auditor:</b>	Garza/Gonzalez	<b>Audit Report Date:</b> July 12, 2021
<b>Audit Area:</b>	Procurement/Contract Management/HUB	
<b>Findings:</b> None	<b>Status Update:</b> Completed.	

**Texas Department of Banking**  
**Audit Activities Report**  
**as of July 31, 2021**

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**Auditor:** *Texas Department of Public Safety*      **Audit Report Date:** *Completed*

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**Audit Area:** *Secure Site Confirmation - Background Checks*

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<b>Findings:</b> <i>No Computerized Criminal History (CCH) Verification logs/forms in place for all name-based searches performed.</i>	<b>Status Update:</b> <i>A CCH log was established and will be used to document all name-based searches performed. Procedures for using the log will be added to the Background Check Manual.</i>
<i>Agency did not unsubscribe from individual records for employees who are no longer entitled to access.</i>	<i>Agency procedures have been modified to require a review of user subscriptions during the first week of each month and after issuance of the Corporate Weekly Bulletin. A log to track compliance with this action has been created.</i>
<i>Criminal History Request Inquiry (CHRI) information is comingled with other records.</i>	<i>The Agency separated all CHRI from other background-related information by placing each of the CHRIs in a separate folder labeled as confidential and will do so going forward.</i>

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**Auditor:** *Department of Information Resources – AT&T*      **Audit Report Date:** *Completed*

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**Audit Area:** *Texas Cybersecurity Framework Assessment*

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<b>Findings:</b>	<b>Status Update:</b> <i>Remediations continue on findings. Will report to Audit Committee in Executive Session upon completion.</i>
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**Auditor:** *Department of Information Resources – AT&T*      **Audit Report Date:** *Pending*

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**Audit Area:** *Web Application Vulnerability Scan and Controlled Penetration Test*

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<b>Findings:</b>	<b>Status Update:</b> <i>In progress – Audit field work continues.</i>
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**Auditor:** *State Office of Risk Management*      **Audit Report Date:** *Pending*

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**Audit Area:** *Risk Management Program Review*

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<b>Findings:</b>	<b>Status Update:</b> <i>In progress – Audit field work is complete and audit report is pending.</i>
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**Auditor:** *Texas Comptroller of Public Accounts*      **Audit Report Date:** *Pending*

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**Audit Area:** *Post Payment Audit*

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<b>Findings:</b>	<b>Status Update:</b> <i>In Progress – Audit field work began January 25, 2021.</i>
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**Office of Consumer Credit Commissioner**  
**Fiscal Year 2021 - 3rd Quarter**

**Residential Mortgage Loan Originator Recovery Trust Fund #3008**

<u>Beginning Balance at 03/01/2021</u>	<u>Additions / *(Deductions)</u>	<u>Interest Paid</u>	<u>Paid Bank Fees</u>	<u>Ending Balance at 05/31/2021</u>	<u>Current Interest Rate</u>
\$ 163,554.68	\$ -	\$ 2.91	\$ -	\$ 163,557.59	0.01%

Prepared By: /s/ Chris Churchill

Date: 08/02/21

Investment Officer: /s/ Mirand Diamond

Date: 8/9/21

Note: These funds are held at the Texas Treasury Safekeeping Trust Company in overnight repurchase agreements.  
The above investments are in compliance with the agency's investment policy.

**Office of Consumer Credit Commissioner**  
**Fiscal Year 2021 - 3rd Quarter**

Texas Financial Education Endowment Fund #3071								
	Beginning Balance at 03/01/2021	Additions	Interest Paid	Transfers	Grant Disbursements	Paid Bank Fees	Ending Balance at 05/31/2021	Current Interest Rate
Cash	\$ 1,374,993.14	\$ 67,137.97	\$ 23.99	\$ (64,636.87)	\$ -	\$ (5,337.97)	\$ 1,372,180.26	0.01%
Invested Portfolio	Beginning Balance at 03/01/2021	Additions	*Change in Value	Transfers	Transfer Out	Paid Fees	Ending Balance at 05/31/2021	
Cash in Bank	\$ 2,920.00	\$ -	\$ (2,920.00)	\$ -	\$ -	\$ -	\$ -	
Investments - STIF	3,665,292.97	4,832.85	(2,312,225.63)			(1,852.91)	1,356,047.28	
Interest & Dividends Receivable	79.42		(53.40)				26.02	
Trade Receivables	-		-				-	
Investments - Equities	3,670.74		6,018.78				9,689.52	
Investments - Alternatives	4,073,157.56		2,585,520.91				6,658,678.47	
Investments - Fixed Income	14,615.15		127,021.01				141,636.16	
Investments - Futures	-		-				-	
Investments - SWAPS, at Fair Value	(8,169.74)		40,410.17				32,240.43	
Total Assets-Invested Portfolio	\$ 7,751,566.10	\$ 4,832.85	\$ 443,771.84	\$ -	\$ -	\$ (1,852.91)	\$ 8,198,317.88	
Liabilities								
Accounts Payable	\$ (3,479.08)	\$ (21,244.62)	\$ -	\$ -	\$ -	\$ -	\$ (24,723.70)	
Interest Payable	(342.10)	(470.23)					(812.33)	
Trade Payables	-	-					-	
Futures Contracts, at Fair Value	-	-					-	
Swaps, at Fair Value	-	-					-	
Total Liabilities	\$ (3,821.18)	\$ (21,714.85)	\$ -	\$ -	\$ -	\$ -	\$ (25,536.03)	
Total Net Fiduciary Assets-Invested Portfolio	\$ 7,747,744.92						\$ 8,172,781.85	
Total Endowment Funds	\$ 9,122,738.06						\$ 9,544,962.11	

Note: These funds are invested with the Texas Treasury Safekeeping Trust Company.  
The above investments are in compliance with the agency's investment policy.

\* Reflects redistributed amount among the asset classes in addition to market value adjustment.

Prepared By: /s/ Chris Churchill

Date: 08/02/2021

Investment Officer: /s/ Mirand Diamond

Date: 8/6/21

## Department of Savings and Mortgage Lending

### Investment Officer Report as of May 31, 2021

#### Recovery Fund

	Beginning Balance 3/1/2021	Additions/ Reductions	Interest Received	Bank Fees	Ending Balance 5/31/2021
Cash & Cash Equivalents	\$4,494,865.60	\$94,142.00	\$5,202.71	(\$101.75)	\$4,594,108.56

Bank Name	Type	Maturity Date	Interest Rate	Book/Market Value	Accrued Interest
Tx Treasury Safekeeping Trust Co	Overnight Repurchase Agreements	6/1/2021	0.01%	\$3,094,108.56	\$0.43
First Fed Community Bank, SSB	CD - 18 months	6/13/2021	1.70%	250,000.00	6,315.97
South Star Bank SSB	CD - 24 months	4/17/2022	1.20%	250,000.00	316.67
TBK Bank	CD - 12 months	4/22/2022	0.60%	250,000.00	1,125.00
Dalhart Federal Savings	CD - 24 months	10/18/2022	1.25%	250,000.00	1,953.13
Pioneer Bank SSB	CD - 18 months	5/24/2022	0.60%	250,000.00	750.00
Horizon Bank SSB	CD - 24 months	1/31/2023	0.60%	250,000.00	129.17
				\$4,594,108.56	\$10,590.37

#### Investment Position:

The Fund is capable of meeting all known obligations.

Investment Officer: /s/Antonia Antov

Investment Officer: /s/Janie Recio

#### Investment Compliance:

The Department's Investment Policy has been followed.

Date: 6/24/2021

Date: 6/24/2021

Department of Banking Quarterly Investment Report  
 March 1, 2021 to May 31, 2021

Seized Prepaid Funeral Funds Held in a Financial Institution	Book Value at February 28, 2021	Interest Income Received	Trustee Fees Paid	Other Deductions	Other Additions	Book Value at May 31, 2021	Financial Institution	Investment Type	Maturity Date	Interest Rate
None	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			N/A	N/A
Total Seized Funds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00				

Notes:

/s/ Jesse Saucillo

Investment Officer

6/17/2021

Date

/s/ Sami Chadli

Investment Officer

6/22/2021

Date

**Trust-Funded Prepaid Funeral Guaranty Fund Quarterly Investment Report**  
**March 1, 2021 to May 31, 2021**

<u>Book Value at February 28, 2021</u>	<u>Interest Income Received</u>	<u>Trustee Fees Paid</u>	<u>(1) Other Deduction(s)</u>	<u>(2) Other Addition(s)</u>	<u>Book/Market Value at May 31, 2021</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Accrued Interest on CDs</u>
\$1,375,678.33	\$2,056.82	\$33.57	\$10,190.41	\$42,022.39	\$1,409,533.56	--	--	\$532.13

Trust Account Balances at Trustee/Depositories

Texas Treasury Safekeeping Trust Company *	\$433,015.14	6/1/2021	0.01%	
State Bank of Texas, Dallas, Texas (CD)	\$240,000.00	12/16/2021	0.90%	\$71.01
Texas Bank Financial, Weatherford, Texas (CD)	\$246,992.73	12/24/2021	0.95%	\$45.00
Frontier Bank of Texas, Elgin, Texas (CD)	\$244,525.69	7/18/2021	1.24%	\$352.42
American Bank of Commerce, Wolfforth, Texas (CD)	\$245,000.00	11/18/2022	0.73%	\$63.70
Subtotal	\$1,409,533.56			

(1) Other deductions include: (a) \$377.28 restitution issued to two consumers and \$522.72 for three consumers escheated to the Texas Comptroller of Public Accounts (Comptroller's Office) as abandoned property related to Amarillo Family Funeral Home; (b) \$635.00 payment issued to two consumers and \$195.00 for one consumer escheated to the Comptroller's Office as abandoned property related to Samaria Funeral Home; and (c) \$8,460.41 for six consumers escheated to the Comptroller's Office as abandoned property related to Hernandez Funeral Home.

(2) Other additions include: (a) \$200.00 restitution received from Mr. Roy and Ms. Kay Bryant dba Amarillo Family Funeral Home; (b) \$200.00 restitution received from Mr. Marc Gonzalez on behalf of Gonzalez Funeral Home; (c) \$9,500.00 restitution received from Hernandez Funeral Home; (d) \$2,865.00 restitution received from Mr. Kevin Keeney on behalf of Howell-Doran Funeral Home; (e) \$1,466.98 restitution received from Mr. Rolando Lopez dba Lopez Funeral Chapels; (f) \$18,500.00 restitution received from Pierce Boone Funeral Home; (g) \$830.00 payment received from Samaria Funeral Home; and (h) \$8,460.41 stop payment of six restitution checks related to Hernandez Funeral Home that were not negotiated by consumers.

\* These funds are held at the Texas Treasury Safekeeping Trust Company in overnight repurchase agreements.  
The above investments are in compliance with the investment strategies of Administrative Memorandum 2016.

/s/ Jesse Saucillo  
Investment Officer

6/17/2021  
Date

/s/ Sami Chadli  
Investment Officer

6/22/2021  
Date



**Insurance-Funded Prepaid Funeral Guaranty Fund Quarterly Investment Report**  
**March 1, 2021 to May 31, 2021**

<u>Book</u> <u>Book Value at February 28, 2021</u>	<u>Interest Income</u> <u>Received</u>	<u>Trustee</u> <u>Fees Paid</u>	<u>Other</u> <u>Deduction(s)</u>	(1) <u>Other</u> <u>Addition(s)</u>	<u>Book/Market</u> <u>Value at May 31, 2021</u>	<u>Maturity</u> <u>Date</u>	<u>Interest</u> <u>Rate</u>	<u>Accrued Interest</u> <u>on CDs</u>
\$745,934.56	\$546.85	\$0.00	\$0.00	\$44,592.00	\$791,073.41			\$179.48

Account Balances at Trustee/Depositories

Texas Treasury Safekeeping Trust Company *	\$300,441.86	6/1/2021	0.01%	
AccessBank, Denton, Texas (CD)	\$245,631.55	7/14/2021	0.90%	\$102.96
Spring Hill State Bank, Longview, Texas (CD)	<u>\$245,000.00</u>	5/12/2022	0.60%	\$76.52
Subtotal	\$791,073.41			

(1) Other additions include assessments collected from permit holders on new insurance-funded contracts.

\* These funds are held at the Texas Treasury Safekeeping Trust Company in overnight repurchase agreements.  
The above investments are in compliance with the investment strategies of Administrative Memorandum 2016.

/s/ Jesse Saucillo  
Investment Officer

6/17/2021  
Date

/s/ Sami Chadli  
Investment Officer

6/22/2021  
Date

OFFICE OF CONSUMER CREDIT COMMISSIONER  
INVESTMENT POLICY STATEMENT  
[Effective- ~~August 20, 2021~~ ~~August 21, 2020~~]

**1. Overview**

This policy governs the investment of funds maintained by the Office of Consumer Credit Commissioner ("Agency"). This policy does not convey investment authority where such does not exist through statute. This policy shall be approved by the Finance Commission of Texas (Finance Commission) as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission met on ~~August 20, 2021~~ ~~August 21, 2020~~ to re-approve this policy as revised to clarify content within this policy. Previously, this policy was reviewed and approved on ~~August 21, 2020~~ ~~August 16, 2019~~.

It is the policy of the Agency to invest funds in compliance with the following priorities, in the order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of investment portfolio; and,
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with- the judgment and -care, under prevailing -circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and -the probable income to be derived.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

**2. Identification of Covered Funds**

Funds covered by this policy are funds authorized to be collected by the Texas Finance Code.

OCCC Operating Fund (TTSTC #2973)	
Enabling Legislation	§16.003, TEX. FIN. CODE

OCCC Residential Mortgage Loan Originator Recovery Fund (TTSTC #3008)	
Enabling Legislation	Sections 341.601 through 341.610, TEX. FIN. CODE
Distribution Policy	The fund shall be used to reimburse residential mortgage loan applicants for actual damages incurred because of acts committed by a state-licensed residential mortgage loan originator who was licensed under the applicable chapter when the act was committed. Recovery is limited by the provision of §341.606 to an aggregate of \$25,000 per claim.

Texas Financial Education Endowment Fund (TTSTC #3071)	
Enabling Legislation	§393.628, TEX. FIN. CODE
Distribution Policy	Annual distributions, payable quarterly or annually, are calculated as 3.5% times the twenty-quarter, moving-average value of the Fund as of June 30 for distributions to be made the following fiscal year.

### **3.Types of Authorized Investments**

Each fund (or a portion of one or more funds) may be placed in the Texas Treasury Safekeeping Trust Company (TTSTC) or its successor. Pursuant to Section 404.106 of the Government Code, funds held by the TTSTC are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Section 404.024 of the Government Code specifies those obligations in which the Comptroller is authorized to invest.

In accordance with Section 341.602(f) of the Finance Code, the OCCC Residential Mortgage Loan Originator Recovery Fund may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from these investments shall be deposited to the credit of the fund. An investment may not be made under Section 341.602(f) if the investment will impair the necessary liquidity required to satisfy payment of judgment awarded under Chapter 341, Subchapter G of the Finance Code.

The Texas Financial Education Endowment Fund is to be invested with the TTSTC. In accordance with Section 393.628(b) of the Finance Code and Title 7, Section 7.105 of the Texas Administrative Code, Texas Financial Education Endowment funds may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas under Texas Government Code Chapter 815, Subchapter D, and interest from those investments will be deposited to the credit of the account. The Investment Policy Statement for Texas Endowment Funds managed by the TTSTC is adopted by reference for the oversight of the Texas Financial Education Endowment Fund.

[See

~~<https://assets.ttstc.com/ttstc-public/20/2020-10-16%20TTSTC%20IPS%20Texas%20Endowment%20Funds.pdf>~~  
~~[https://ttstc.org/reports/investmentpolicies/Endowment%20IPS%20September%202018%20\(FINAL\).pdf](https://ttstc.org/reports/investmentpolicies/Endowment%20IPS%20September%202018%20(FINAL).pdf)~~

These policies include:

- An investment return objective of 6%
- A securities lending objective to enhance current income to the extent consistent with the preservation of capital and maintenance of liquidity
- Portfolio rebalancing
- Portfolio hedging and overlays
- Asset allocation targets and performance benchmarks
- Risk management guidelines
- Investment manager expectations
- Fixed income, equity, real estate and all asset strategies

The investment policies of the TTSTC control over any conflict between this policy and the TTSTC investment policy for the Texas Financial Education Endowment Fund.

Insofar as a fund or portion of a fund is deposited in a financial institution, the Agency may utilize the investment securities listed below. "Maximum allowable maturity," when used in this policy, means the remaining time until the final principal payment on the investment, measured from the date of purchase

by the Agency.

- ◆A. Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks, with a maximum allowable maturity of 10 years;
- ◆B. Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
- ◆C. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U. S. , the underlying security for which is guaranteed by an agency or instrumentality of the U.S. provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 10 years from the date the collateralized mortgage obligation is acquired by the Agency;
- ◆D. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the U.S. or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the U.S. with a maximum allowable maturity of 10 years;
- ◆E. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent with a maximum allowable maturity of 10 years. If the rating of the issuing entity is downgraded below investment quality during the time an investment is held from that entity, all prudent measures must be taken to liquidate the investment within a reasonable period of time, consistent with the guidelines in this policy;
- ◆F. Bonds issued, assumed, or guaranteed by the State of Israel;
- ◆G. Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
- ◆H. Other interest-bearing deposit accounts not described above if:
  - ❖i. The funds are invested through a broker with a main office or branch office in this state as selected by the Agency from an approved list, or through a depository institution with a main office or branch office in this state;
  - ❖ii. The selected broker or depository institution arranges for the deposit of the funds in deposit accounts in one or more federally insured institutions, regardless of where located;
  - ❖iii. The full amount of principal and accrued interest in such deposit accounts is insured by the U.S or an instrumentality of the U.S.; and
  - ❖iv. The Agency appoints a custodian of the deposit accounts that is:
    - ◆a. The depository institution selected to broker the deposits;
    - ◆b. A state or national bank designated by the comptroller as a state depository with its main office or a branch office in this state, that has capital stock and surplus of \$5 million or more;
    - ◆c. The Texas Treasury Safekeeping Trust Company
    - ◆d. A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - ◆e. A Federal Home Loan Bank;
    - ◆f. A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as custodian; or
    - ◆g. A clearing broker dealer registered with the Securities and Exchange Commission (SEC) and operating under SEC Rule 15c3 (17 C.F.R. Section 240.15c3-3)

- I. A certificate of deposit issued by a depository institution that has its main office or a branch office in this state, if the certificate:
  - ⊖i. Is guaranteed or fully insured by the FDIC, or its successor; or,
  - ⊖ii. Is secured by obligations allowable under Gov't Code § 2256.009(a) for direct investment by the Agency; or
  - ⊖iii. Is secured as provided under the Public Funds Collateral Act (Gov't Code Ch. 2257); and
  - ⊖iv. Does not have a maturity exceeding 36 months.

A certificate of deposit must be fully secured as described above but may be secured by a combination of the listed alternatives.

• Bids for certificates of deposit may be solicited:

- Orally;
- In writing;
- Electronically; or
- In any combination of those methods.

A.J. A repurchase agreement, collateralized on a daily basis at a minimum of 102% of market value, including a direct security repurchase agreement and a reverse security repurchase agreement, that:

- i. With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
- ii. Is secured by a combination of cash and obligations allowable under Gov't Code § 2256.009(a)(1) or § 2256.013 ;
- ⊖iii. Requires securities being purchased or cash held by the Agency to be pledged to the Agency, held in the Agency's name and deposited at the time the investment is made with the Agency or with a third party selected and approved by the Agency;
- ⊖iv. Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
- ⊖v. Requires that money received under the terms of a reverse security repurchase agreement must be used to acquire additional authorized investments, but the term of the authorized investments required must mature not later than the expiration date stated in the reverse security repurchase agreement.

B.K. A no-load money market mutual fund that:

- ⊖i. Is registered with and regulated by the SEC ;
- ⊖ii. Provides the Agency with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940; and
- ⊖iii. Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).

C.L. A no-load mutual fund that:

- ⊖i. Is registered with the SEC ;
- ⊖ii. Has an average weighted maturity of less than two years; and
- ⊖iii. Either:
  - a. Has a duration of one year or more and is invested exclusively in obligations authorized in this policy; or
  - b. Has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

In general, investments that were authorized at the time they were purchased or otherwise obtained may be retained under this policy even if later revisions of the policy render the investments in noncompliance. One exception is any investment that requires a minimum rating if the rating declines to below the minimum.

The investing entity is required to take all prudent measures that are consistent with its investment policy

to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270. These divestiture requirements expire in 2037.

#### **4.Unauthorized Investments**

The following are not authorized investments under this policy:

- ◆A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- ◆B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
- ◆C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
- ◆D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index; and
- ◆E. No portion of bond proceeds, reserves and funds held for debt service may be invested in no-load mutual funds described in Gov't Code §2256.014(b);
- ◆F. Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist organization.<sup>1</sup>

#### **5.Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Office of Consumer Credit Commissioner and safekeeping receipts will be maintained on file.

#### **6.Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

- ◆A. The investment position of the Agency on the date of the report;
- ◆B. The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
- ◆C. The maturity date of each separately invested asset that has a maturity date;
- ◆D. The fund for which each individual investment was acquired;
- ◆E. Any non-compliance of the investment portfolio with this policy;
- ◆F. Income received and expenses incurred in conjunction with investments; and,
- ◆G. Any other information as required by the Finance Commission.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

#### **7.Rates of Return, ~~and~~ Market Pricing and Ratings Changes**

The Agency expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. Higher rates of return will be targeted on the more aggressive and longer term investment products. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing, **rating changes**, and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives. **The investment officer will use the same methods and procedures as a prudent investor, exercising reasonable care, skill, and caution.**

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<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.

## **8.Diversification**

Investments in FDIC-insured deposits (in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin) and in direct U.S. Treasury obligations are not subject to diversification other than maturity considerations. For investments other than those just listed, diversification shall be as follows:

- A. The aggregate investment in no-load mutual funds described in Gov't Code §2256.014(b) may not exceed 15 % of the monthly average fund balance of a covered investment fund held by the Agency, excluding bond proceeds and reserves and other funds held for debt service;
- B. No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
- C. Investment in any one mutual fund may not exceed 10% of the total assets of the mutual fund.

## **9.Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

## **10.Investment Officer**

The Director of Licensing and Finance will be the designated Investment Officer and is responsible for the investment of the funds held and invested by the Agency. The Investment Officer is authorized to:

- A. Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- B. Delegate routine business transactions within authorized and established investments; and,
- C. Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

If the Investment Officer has a personal business relationship with a business organization offering to engage in an investment transaction with the Agency, the Officer shall file a statement disclosing that personal business interest. For the purposes of this policy, an investment officer has a personal business relationship with a business organization if:

- The investment officer owns 10% or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
- Funds received by the investment officer from the business organization exceed 10% of the investment officer's gross income for the previous year; or
- The investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Agency, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within 180 days of the end of each Legislative session, the Agency will provide a report to the Finance Commission outlining any recent amendments pertaining to the Public Funds Investment Act and other statutes, and will provide appropriate recommendations to update the Investment Policy as needed.

## **11.Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security —risks, strategy risks, and—market risks, portfolio diversification, and compliance with applicable statutes.



Any training conducted or approved by any state or federal agency, independent of the Agency, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

#### **12.Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of the Financial Industry Regulatory Authority (FINRA) and the Securities Investor Protection Corporation (SIPC). **The quality of all investment must meet the needs of the agency and e managed in accordance with this policy.**

#### **13.Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Agency**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Agency. A qualified representative of the business organization offering to engage in an investment transaction with the Agency shall execute a written acknowledgment (Appendix #1) that the business organization:

- ◆A. Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
- ◆B. Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Agency and the organization that are not authorized by the Agency's investment policy, except to the extent that this authorization:
  - ◆i. is dependent on an analysis of the makeup of the Agency's -entire -portfolio;
  - ◆ii. requires an interpretation of subjective investment standards; or
  - ◆iii. relates to investment transactions of the Agency that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a person who has not delivered to the Agency the instrument in substantially the form provided.

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<sup>2</sup> A "business organization" means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity's funds.

### Acknowledgment

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Office of Consumer Credit Commissioner and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Office of Consumer Credit Commissioner's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

\_\_\_\_\_  
Signature of Qualified Representative

\_\_\_\_\_  
Date

OFFICE OF CONSUMER CREDIT COMMISSIONER  
INVESTMENT POLICY STATEMENT  
*[Effective August 20, 2021]*

**1. Overview**

This policy governs the investment of funds maintained by the Office of Consumer Credit Commissioner ("Agency"). This policy does not convey investment authority where such does not exist through statute. This policy shall be approved by the Finance Commission of Texas (Finance Commission) as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission met on August 20, 2021 to re-approve this policy as revised to clarify content within this policy. Previously, this policy was reviewed and approved on August 21, 2020.

It is the policy of the Agency to invest funds in compliance with the following priorities, in the order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of investment portfolio; and,
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

**2. Identification of Covered Funds**

Funds covered by this policy are funds authorized to be collected by the Texas Finance Code.

OCCC Operating Fund (TTSTC #2973)	
Enabling Legislation	§16.003, TEX. FIN. CODE

OCCC Residential Mortgage Loan Originator Recovery Fund (TTSTC #3008)	
Enabling Legislation	Sections 341.601 through 341.610, TEX. FIN. CODE
Distribution Policy	The fund shall be used to reimburse residential mortgage loan applicants for actual damages incurred because of acts committed by a state-licensed residential mortgage loan originator who was licensed under the applicable chapter when the act was committed. Recovery is limited by the provisions of §341.606 to an aggregate of \$25,000 per claim.

Texas Financial Education Endowment Fund (TTSTC #3071)	
Enabling Legislation	§393.628, TEX. FIN. CODE
Distribution Policy	Annual distributions, payable quarterly or annually, are calculated as 3.5% times the twenty-quarter, moving-average value of the Fund as of June 30 for distributions to be made the following fiscal year.

### **3.Types of Authorized Investments**

Each fund (or a portion of one or more funds) may be placed in the Texas Treasury Safekeeping Trust Company (TTSTC) or its successor. Pursuant to Section 404.106 of the Government Code, funds held by the TTSTC are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Section 404.024 of the Government Code specifies those obligations in which the Comptroller is authorized to invest.

In accordance with Section 341.602(f) of the Finance Code, the OCCC Residential Mortgage Loan Originator Recovery Fund may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from these investments shall be deposited to the credit of the fund. An investment may not be made under Section 341.602(f) if the investment will impair the necessary liquidity required to satisfy payment of judgment awarded under Chapter 341, Subchapter G of the Finance Code.

The Texas Financial Education Endowment Fund is to be invested with the TTSTC. In accordance with Section 393.628(b) of the Finance Code and Title 7, Section 7.105 of the Texas Administrative Code, Texas Financial Education Endowment funds may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas under Texas Government Code Chapter 815, Subchapter D, and interest from those investments will be deposited to the credit of the account. The Investment Policy Statement for Texas Endowment Funds managed by the TTSTC is adopted by reference for the oversight of the Texas Financial Education Endowment Fund.

[See

<https://assets.ttstc.com/ttstc-public/20/2020-10-16%20TTSTC%20IPS%20Texas%20Endowment%20Funds.pdf>

These policies include:

- An investment return objective of 6%
- A securities lending objective to enhance current income to the extent consistent with the preservation of capital and maintenance of liquidity
- Portfolio rebalancing
- Portfolio hedging and overlays
- Asset allocation targets and performance benchmarks
- Risk management guidelines
- Investment manager expectations
- Fixed income, equity, real estate and all asset strategies

The investment policies of the TTSTC control over any conflict between this policy and the TTSTC investment policy for the Texas Financial Education Endowment Fund.

Insofar as a fund or portion of a fund is deposited in a financial institution, the Agency may utilize the investment securities listed below. "Maximum allowable maturity," when used in this policy, means the remaining time until the final principal payment on the investment, measured from the date of purchase by the Agency.

- A. Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks, with a maximum allowable maturity of 10 years;
- B. Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
- C. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U. S. , the underlying security for which is guaranteed by an agency or instrumentality of the U.S. provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 10 years from the date the collateralized mortgage obligation is acquired by the Agency;
- D. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the U.S. or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the U.S. with a maximum allowable maturity of 10 years;
- E. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent with a maximum allowable maturity of 10 years. If the rating of the issuing entity is downgraded below investment quality during the time an investment is held from that entity, all prudent measures must be taken to liquidate the investment within a reasonable period of time, consistent with the guidelines in this policy;
- F. Bonds issued, assumed, or guaranteed by the State of Israel;
- G. Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
- H. Other interest-bearing deposit accounts not described above if:
  - i. The funds are invested through a broker with a main office or branch office in this state as selected by the Agency from an approved list, or through a depository institution with a main office or branch office in this state;
  - ii. The selected broker or depository institution arranges for the deposit of the funds in deposit accounts in one or more federally insured institutions, regardless of where located;
  - iii. The full amount of principal and accrued interest in such deposit accounts is insured by the U.S or an instrumentality of the U.S.; and
  - iv. The Agency appoints a custodian of the deposit accounts that is:
    - a. The depository institution selected to broker the deposits;
    - b. A state or national bank designated by the comptroller as a state depository with its main office or a branch office in this state, that has capital stock and surplus of \$5 million or more;
    - c. The Texas Treasury Safekeeping Trust Company
    - d. A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - e. A Federal Home Loan Bank;
    - f. A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as custodian; or
    - g. A clearing broker dealer registered with the Securities and Exchange Commission (SEC) and operating under SEC Rule 15c3 (17 C.F.R. Section 240.15c3-3)

- I. A certificate of deposit issued by depository institution that has its main office or a branch office in this state, if the certificate:
  - i. Is guaranteed or fully insured by the FDIC, or its successor; or,
  - ii. Is secured by obligations allowable under Gov't Code § 2256.009(a) for direct investment by the Agency; or
  - iii. Is secured as provided under the Public Funds Collateral Act (Gov't Code Ch. 2257); and
  - iv. Does not have a maturity exceeding 36 months.

A certificate of deposit must be fully secured as described above but may be secured by a combination of the listed alternatives.

Bids for certificates of deposit may be solicited:

- o Orally;
  - o In writing;
  - o Electronically; or
  - o In any combination of those methods.
- J. A repurchase agreement , collateralized on a daily basis at a minimum of 102% of market value, including a direct security repurchase agreement and a reverse security repurchase agreement , that:
  - i. With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
  - ii. Is secured by a combination of cash and obligations allowable under Gov't Code §2256.009(a)(1) or § 2256.013;
  - iii. Requires securities being purchased or cash held by the Agency to be pledged to the Agency, held in the Agency's name and deposited at the time the investment is made with the Agency or with a third party selected and approved by the Agency;
  - iv. Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
  - v. Requires that money received under the terms of a reverse security repurchase agreement must be used to acquire additional authorized investments, but the term of the authorized investments required must mature not later than the expiration date stated in the reverse security repurchase agreement.
- K. A no-load money market mutual fund that:
  - i. Is registered with and regulated by the SEC ;
  - ii. Provides the Agency with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940; and
  - iii. Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).
- L. A no-load mutual fund that:
  - i. Is registered with the SEC ;
  - ii. Has an average weighted maturity of less than two years; and
  - iii. Either:
    - a. Has a duration of one year or more and is invested exclusively in obligations authorized in this policy; or
    - b. Has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

In general, investments that were authorized at the time they were purchased or otherwise obtained may be retained under this policy even if later revisions of the policy render the investments in noncompliance. One exception is any investment that requires a minimum rating if the rating declines to below the minimum. The investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to

investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270. These divestiture requirements expire in 2037.

#### **4.Unauthorized Investments**

The following are not authorized investments under this policy:

- A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
- C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
- D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index; and
- E. No portion of bond proceeds, reserves and funds held for debt service may be invested in no-load mutual funds described in Gov't Code §2256.014(b);
- F. Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist organization.<sup>1</sup>

#### **5.Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Office of Consumer Credit Commissioner and safekeeping receipts will be maintained on file.

#### **6.Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

- A. The investment position of the Agency on the date of the report;
- B. The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
- C. The maturity date of each separately invested asset that has a maturity date;
- D. The fund for which each individual investment was acquired;
- E. Any non-compliance of the investment portfolio with this policy;
- F. Income received and expenses incurred in conjunction with investments; and,
- G. Any other information as required by the Finance Commission.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

#### **7.Rates of Return, Market Pricing and Ratings Changes**

The Agency expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. Higher rates of return will be targeted on the more aggressive and longer term investment products. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing, rating changes, and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives. The investment officer will use the same methods and procedures as a prudent investor, exercising reasonable care, skill, and caution.

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<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.



## **8.Diversification**

Investments in FDIC-insured deposits (in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin) and in direct U.S. Treasury obligations are not subject to diversification other than maturity considerations. For investments other than those just listed, diversification shall be as follows:

- A. The aggregate investment in no-load mutual funds described in Gov't Code §2256.014(b) may not exceed 15 % of the monthly average fund balance of a covered investment fund held by the Agency, excluding bond proceeds and reserves and other funds held for debt service;
- B. No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
- C. Investment in any one mutual fund may not exceed 10% of the total assets of the mutual fund.

## **9.Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

## **10.Investment Officer**

The Director of Licensing and Finance will be the designated Investment Officer and is responsible for the investment of the funds held and invested by the Agency. The Investment Officer is authorized to:

- A. Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- B. Delegate routine business transactions within authorized and established investments; and,
- C. Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

If the Investment Officer has a personal business relationship with a business organization offering to engage in an investment transaction with the Agency, the Officer shall file a statement disclosing that personal business interest. For the purposes of this policy, an investment officer has a personal business relationship with a business organization if:

- The investment officer owns 10% or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
- Funds received by the investment officer from the business organization exceed 10% of the investment officer's gross income for the previous year; or
- The investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Agency, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within 180 days of the end of each Legislative session, the Agency will provide a report to the Finance Commission outlining any recent amendments pertaining to the Public Funds Investment Act and other statutes, and will provide appropriate recommendations to update the Investment Policy as needed.

## **11.Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, market risks, portfolio diversification, and compliance with applicable statutes.

Any training conducted or approved by any state or federal agency, independent of the Agency, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

#### **12. Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of the Financial Industry Regulatory Authority (FINRA) and the Securities Investor Protection Corporation (SIPC). The quality of all investment must meet the needs of the agency and be managed in accordance with this policy.

#### **13. Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Agency**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Agency. A qualified representative of the business organization offering to engage in an investment transaction with the Agency shall execute a written acknowledgment (Appendix #1) that the business organization:

- A. Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
- B. Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Agency and the organization that are not authorized by the Agency's investment policy, except to the extent that this authorization:
  - i. is dependent on an analysis of the makeup of the Agency's entire portfolio;
  - ii. requires an interpretation of subjective investment standards; or
  - iii. relates to investment transactions of the Agency that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a person who has not delivered to the Agency the instrument in substantially the form provided.

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<sup>2</sup> A "business organization" means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity's funds.

**Acknowledgment**

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Office of Consumer Credit Commissioner and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Office of Consumer Credit Commissioner's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

\_\_\_\_\_  
Signature of Qualified Representative

\_\_\_\_\_  
Date

## OCCC Investment Training

Staff Member	Date	Course	Sponsor	Hours
Mirand Diamond	8/7/2020	PFIA	Univ North Texas	5
Leslie Pettijohn	8/6/2021	PFIA	Univ North Texas	5
Chris Churchill	8/6/2021	PFIA	Univ North Texas	5

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# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

## **Overview**

This policy governs the investment of funds of the Recovery Fund and Mortgage Grant Fund (“the Funds”) which are Fund) administered by the Department of Savings and Mortgage Lending (“the Department”) to the extent the Department has statutory investment authority. The Recovery Fund ~~washas been~~ established as mandated by the 76<sup>th</sup> Legislature and organized pursuant to ~~the~~ Texas Finance Code, Chapter 156, Subchapter F. The Mortgage Grant Fund was created by the 87<sup>th</sup> Legislature and organized pursuant to Texas Finance Code, Chapter 156, Subchapter G. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code Chapter 2256), except as specifically authorized by the 87<sup>th</sup> legislature, efforts are made to closely follow the Act.

This policy does not convey investment authority where such does not exist through statute or the courts. This policy shall be approved by the Finance Commission as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission reapproved this policy on August ~~20, 2021~~21, 2020. The policy includes changes required by legislation passed by the 87<sup>th</sup> Legislature, as follows: ~~clarifying content. Previous changes to this policy were approved on August 16, 2019.~~

- the creation of the Mortgage Grant Fund;
- amounts in the Recovery Fund may no longer be invested be invested and reinvested in the same manner as funds of the Employee Retirement system of Texas; and
- amounts in both the Recovery and Mortgage Grant Funds may be invested and reinvested in accordance with the Public Funds Investment Act and under the standard described in Section 11b, Article VII, Texas Constitution.

Previous changes to this policy were approved on August 21, 2020.

It is the policy of the Department to invest funds in compliance with the following priorities, in order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of the investment portfolio; and
- Marketability of the investment if the need arises to liquidate the investment before maturity.

According to the Texas Constitution, Section 11b, Article VII, each of the Funds shall be managed and invested as a prudent investor, exercising reasonable care, skill, and caution, would invest in light of the purposes, terms, distribution requirements, and other circumstances of the Funds then prevailing, taking into consideration the investment of all the assets of each of the Funds rather than a single investment.

~~All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Appropriate diversification of investments will be sought.~~

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

## **Identification of Covered Funds**

Funds covered by this policy include amounts deposited into the Recovery Fund as prescribed in Texas Finance Code, Chapter 156, Subchapter F, and the Mortgage Grant Fund as prescribed in Texas Finance Code, Chapter 156, Subchapter G..

## **Types of Authorized Investments**

The ~~Funds fund~~ or a portion of the ~~Funds fund~~ may be placed in the Texas Treasury Safekeeping Trust Company (“TTSTC”) (or its successor). Pursuant to Government Code, Section 404.106, funds held by the TTSTC shall~~Texas~~

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

~~Treasury Safekeeping Trust Company~~ are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Government Code Section 404.024 specifies those obligations in which the Comptroller is authorized to invest.

According to Texas Finance Code, Section 156.501(c), the amounts in the ~~Recovery Fund~~ may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the standard described by Section 11b, Article VII, same manner as funds of the Texas Constitution, State Employees Retirement System (“ERS”), however an investment may not be made if it will impair the necessary liquidity required to satisfy claims judgment payments awarded to residential mortgage loan applicants from the Recovery Fund.

According to Texas Finance Code Section 156.553(b), the amounts in the Mortgage Grant Fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the standard described in Section 11b, Article VII, Texas Constitution.

Authorized investments according to the Public Funds Investment Act as well as their applicable standards, requirements, and any exceptions, may be found at Tex. Gov’t Code §§ 2256.009 through 2256.016, and include:

~~The Department’s investment goals align with the ERS’s investment policy for Cash and Cash equivalents, which states that the cash portfolio is managed to maintain liquidity and preserve principal with a maximum final maturity of 18 months and with a minimum credit quality rating of A. The eligible securities for cash and cash equivalents according to ERS’s investment policy are as follows:~~

1. Obligations of, or Guaranteed by, Governmental Entities ~~Asset Backed Securities~~
2. Certificates of Deposit and Share Certificates
3. ~~Commercial Paper~~
4. ~~Time Deposits~~
5. Repurchase Agreements
6. Securities Lending Programs ~~Treasury and Government Agency Securities~~
5. Bankers’ Acceptances ~~Notes~~
7. Commercial Paper
7. Institutional Money Market ~~Mutual~~ Funds
8. Guaranteed Investment Contracts
8. Investment Pools
9. ~~Supranationals/Sovereigns~~
10. ~~Domestic corporate bonds and floating rate notes (FRNs)~~
11. ~~Interest bearing deposit accounts~~
12. ~~Bonds issued, assumed, or guaranteed by the State of Israel~~
13. ~~No load money market mutual fund~~
14. ~~No load mutual fund~~

To provide for more flexibility and obtain a higher rate of return, while still maintaining liquidity and ~~preserving~~ preserve principal, the ~~Department’s maximum~~ Department increases the allowable maturity period for any individual investment is to 36 months (~~420-60~~ months for Obligations of, or Guaranteed by, Governmental Entities ~~Asset Backed Securities~~) and ~~with~~ a minimum acceptable credit rating of A. To further limit the investment risk, the Department restricts the eligible securities for investment of funds covered under this policy to:

1. *Certificates of Deposit & Time Deposits* – Deposit accounts in a depository institution that has its main office or a branch office in this state which are: 1) Insured by a federal deposit insurance agency or its successor; or 2) 100% secured by either obligations that are described by Tex. Gov’t Code § 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than ~~allowable under the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Tex. Gov’t Code § 2256.009(b), or in accordance with Tex. Gov’t Code Chapter 2257~~ ERS’ investment policy for cash and cash equivalents; and 3) do not have a maturity exceeding 36 months. ~~Bids for certificates of deposit may be solicited orally, in writing, electronically or in~~ any combination of those methods.



# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

## INVESTMENT POLICY

2. *Repurchase Agreements* – Direct or reverse security repurchase agreements with ~~TTSTC the Texas Treasury Safekeeping Trust Company~~ (or its successor) or another authorized entity under this policy, which are: 1) collateralized on a daily basis at a minimum of 102% of market value; 2) 100% secured by securities ~~authorized by the Public Funds Investment Act~~ allowable under the ERS' investment policy for cash and cash equivalents; 3) are placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state.
- ~~3. *Asset Backed Securities* – Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U.S., the underlying security for which is guaranteed by an agency or instrumentality of the U.S., provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 120 months from the date the collateralized mortgage obligation is acquired by the Department and expected average life of not more than 60 months.~~
3. *Obligations of, or Guaranteed by, Governmental Entities* ~~Treasury and Government Agency Securities~~ – Obligations, including letters of credit, of the United States or its agencies and instrumentalities (including the Federal Home Loan Banks), direct obligations of this state or its agencies and instrumentalities, and obligations of state or local government agencies and instrumentalities of any state rated as to investment quality by a nationally recognized investment rating firm not less than A with a maximum allowable maturity of 60 months.
4. *Investment Pools* – Investment pools with TTSTC or another authorized entity, which pools invest in authorized by the Public Funds Investment Act investments, according to the requirements of Tex. Gov't Code § 2256.016.

Investments that were authorized at the time they were purchased may be retained under this policy until their maturity, even if later revisions of the policy render the investments in noncompliance; unless the reason for noncompliance is that the investment's rating declines to below the minimum rating required by this policy. In such cases, the investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270, effective September 1, 2017. These divestiture requirements expire in 2037.

### **Unauthorized Investments**

Unauthorized Investments under this policy are:

1. All investments in securities not specifically listed in this policy as eligible securities;
2. All investments with maturity and credit rating that do not comply with the requirements of this policy;
3. All investments obtained through an unauthorized entity under this policy;
4. All investments which comply with the policy but through inherent characteristics or external influences and factors could prevent the Department to reach its investment goals under this policy;
5. All Investments in companies doing business in Sudan, Iran, or engaging in business with a foreign terrorist organization.<sup>1</sup>

### **Strategy for the Recovery Fund**~~Covered Funds~~

The investment strategy for funds received into the Recovery Fund is to place funds in either authorized investments set forth in this policy, or in the Texas Treasury Safekeeping Trust Company, with amounts and maturities determined using the following priorities in order of importance:

- (1) the suitability of the investment to the available balances and anticipated needs of the Recovery Fund
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;

<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

- (5) diversification of the investment portfolio; and
- (6) yield.

## **Strategy for the Mortgage Grant Fund**

The investment strategy for funds received into the Mortgage Grant Fund is to place funds in either authorized investments set forth in this policy, or in the Texas Treasury Safekeeping Trust Company, with amounts and maturities determined by using the following priorities in order of importance: ~~anticipated liquidity needs.~~

- (1) the suitability of the investment to the anticipated needs of the Mortgage Grant Fund,
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

## **Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Department of Savings and Mortgage Lending and safekeeping receipts will be maintained on file.

## **Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

- The investment position of the ~~Funds Fund~~ on the date of the report;
- The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
- The maturity date of each separately invested asset that has a maturity date;
- The compliance, including any ~~Any~~ non-compliance, of the investment portfolio with this policy;
- Income received and expenses incurred in conjunction with investments; and,
- Any other information as required by the Finance Commission or deemed relevant to this policy.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

## **Investment Management**

The investment management of the Funds must be of sufficient quality and capability to meet and understand the suitability of the investments to the meet the financial requirements of the Department and each of the Funds.

## **Rates of Return, ~~and~~ Market Pricing, and Ratings Changes**

The Department expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing, rating changes, and rates of return on all investments to ensure that their ratings, values, and yields are consistent with risk and meet investment objectives, using the same methods and procedures a prudent investor, exercising reasonable care, skill, and caution, would use.

## **Diversification**

Investments in FDIC-insured deposits, in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin, and in direct U.S. Treasury obligations, are not subject to diversification other than maturity considerations.

## **Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

basis.

## **Investment Officer**

The Director of ~~Operations Administration and Finance~~ will be the designated primary Investment Officer (“Investment Officer”) and is responsible for the funds held and invested by the Department. The Commissioner may designate a secondary Investment Officer who will act as Investment Officer, if the primary Investment Officer is unavailable. The Investment Officer is authorized to:

- Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- Delegate routine business transactions within authorized and established investments; and,
- Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

The Investment Officer may not have a personal business relationship with a business organization offering to engage in an investment transaction with the Department.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within six months of the end of each Legislative session, the Investment Officer will provide a report to the Finance Commission outlining any amendments made to the Public Funds Investment Act and other statutes, impacting the agency’s investments, and provide recommendations to update the Investment Policy, as needed.

## **Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, market risks, portfolio diversification, and compliance with the Public Funds Investment Act, ~~and market risks~~. Any training conducted or approved by any state or federal agency, independent of the Department, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

## **Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of Financial Industry Regulatory Authority (FINRA).

## **Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Department**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Department. Any business organization holding federally insured deposit accounts is exempt from this requirement. A qualified representative of the business organization offering to engage in an investment transaction with the Department shall execute a written acknowledgment (Appendix) that the business organization:

- Has received and reviewed the Investment Policy of the Department; and,
- Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the organization that are not authorized by the Department's investment policy, except

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<sup>2</sup> A “business organization” means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity’s funds.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

to the extent that this authorization:

- is dependent on an analysis of the makeup of the Department's entire portfolio;
- requires an interpretation of subjective investment standards; or
- relates to investment transactions of the Department that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a business organization who has not delivered to the Department the instrument in substantially the form provided.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

## **Appendix Acknowledgment**

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank/trust company) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department of Savings and Mortgage Lending and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

\_\_\_\_\_  
Signature of Qualified Representative

\_\_\_\_\_  
Date

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

## **Overview**

This policy governs the investment of funds of the Recovery Fund and Mortgage Grant Fund (“the Funds”) which are administered by the Department of Savings and Mortgage Lending (“the Department”) to the extent the Department has statutory investment authority. The Recovery Fund was established as mandated by the 76<sup>th</sup> Legislature and organized pursuant to Texas Finance Code, Chapter 156, Subchapter F. The Mortgage Grant Fund was created by the 87<sup>th</sup> Legislature and organized pursuant to Texas Finance Code, Chapter 156, Subchapter G. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code Chapter 2256), except as specifically authorized by the 87<sup>th</sup> legislature, efforts are made to closely follow the Act.

This policy does not convey investment authority where such does not exist through statute or the courts. This policy shall be approved by the Finance Commission as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission reapproved this policy on August 20, 2021. The policy includes changes required by legislation passed by the 87<sup>th</sup> Legislature, as follows:

- the creation of the Mortgage Grant Fund;
- amounts in the Recovery Fund may no longer be invested be invested and reinvested in the same manner as funds of the Employee Retirement system of Texas; and
- amounts in both the Recovery and Mortgage Grant Funds may be invested and reinvested in accordance with the Public Funds Investment Act and under the standard described in Section 11b, Article VII, Texas Constitution.

Previous changes to this policy were approved on August 21, 2020.

It is the policy of the Department to invest funds in compliance with the following priorities, in order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of the investment portfolio; and
- Marketability of the investment if the need arises to liquidate the investment before maturity.

According to the Texas Constitution, Section 11b, Article VII, each of the Funds shall be managed and invested as a prudent investor, exercising reasonable care, skill, and caution, would invest in light of the purposes, terms, distribution requirements, and other circumstances of the Funds then prevailing, taking into consideration the investment of all the assets of each of the Funds rather than a single investment.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

## **Identification of Covered Funds**

Funds covered by this policy include amounts deposited into the Recovery Fund as prescribed in Texas Finance Code, Chapter 156, Subchapter F, and the Mortgage Grant Fund as prescribed in Texas Finance Code, Chapter 156, Subchapter G.

## **Types of Authorized Investments**

The Funds or a portion of the Funds may be placed in the Texas Treasury Safekeeping Trust Company (“TTSTC”) (or its successor). Pursuant to Government Code, Section 404.106, funds held by the TTSTC shall be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Government Code Section 404.024 specifies those obligations in which the Comptroller is authorized to invest.

According to Texas Finance Code Section 156.501(c), the amounts in the Recovery Fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the standard described by Section 11b,

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

Article VII, Texas Constitution, however an investment may not be made if it will impair the necessary liquidity required to satisfy claims awarded to residential mortgage loan applicants from the Recovery Fund.

According to Texas Finance Code Section 156.553(b), the amounts in the Mortgage Grant Fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the standard described in Section 11b, Article VII, Texas Constitution.

Authorized investments according to the Public Funds Investment Act as well as their applicable standards, requirements, and any exceptions, may be found at Tex. Gov't Code §§ 2256.009 through 2256.016, and include:

1. Obligations of, or Guaranteed by, Governmental Entities
2. Certificates of Deposit and Share Certificates
3. Repurchase Agreements
4. Securities Lending Programs
5. Bankers' Acceptances
6. Commercial Paper
7. Mutual Funds
8. Guaranteed Investment Contracts
9. Investment Pools

To provide for more flexibility and obtain a higher rate of return, while still maintaining liquidity and preserving principal, the Department's maximum allowable maturity period for any individual investment is 36 months (60 months for Obligations of, or Guaranteed by, Governmental Entities) and a minimum acceptable credit rating of A. To further limit the investment risk, the Department restricts the eligible securities for investment of funds covered under this policy to:

1. *Certificates of Deposit & Time Deposits* – Deposit accounts in a depository institution that has its main office or a branch office in this state which are: 1) Insured by a federal deposit insurance agency or its successor; or 2) 100% secured by either obligations that are described by Tex. Gov't Code § 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Tex. Gov't Code § 2256.009(b), or in accordance with Tex. Gov't Code Chapter 2257; and 3) do not have a maturity exceeding 36 months. Bids for certificates of deposit may be solicited orally, in writing, electronically or in any combination of those methods.
2. *Repurchase Agreements* – Direct or reverse security repurchase agreements with TTSTC (or its successor) or another authorized entity under this policy, which are: 1) collateralized on a daily basis at a minimum of 102% of market value; 2) 100% secured by securities authorized by the Public Funds Investment Act; 3) are placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state.
3. *Obligations of, or Guaranteed by, Governmental Entities* – Obligations, including letters of credit, of the United States or its agencies and instrumentalities (including the Federal Home Loan Banks), direct obligations of this state or its agencies and instrumentalities, and obligations of state or local government agencies and instrumentalities of any state rated as to investment quality by a nationally recognized investment rating firm not less than A with a maximum allowable maturity of 60 months.
4. *Investment Pools* – Investment pools with TTSTC or another authorized entity, which pools invest in authorized by the Public Funds Investment Act investments, according to the requirements of Tex. Gov't Code § 2256.016.

Investments that were authorized at the time they were purchased may be retained under this policy until their maturity, even if later revisions of the policy render the investments in noncompliance; unless the reason for noncompliance is that the investment's rating declines to below the minimum rating required by this policy. In such cases, the investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

## INVESTMENT POLICY

in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270, effective September 1, 2017. These divestiture requirements expire in 2037.

### **Unauthorized Investments**

Unauthorized Investments under this policy are:

1. All investments in securities not specifically listed in this policy as eligible securities;
2. All investments with maturity and credit rating that do not comply with the requirements of this policy;
3. All investments obtained through an unauthorized entity under this policy;
4. All investments which comply with the policy but through inherent characteristics or external influences and factors could prevent the Department to reach its investment goals under this policy;
5. All Investments in companies doing business in Sudan, Iran, or engaging in business with a foreign terrorist organization.<sup>1</sup>

### **Strategy for the Recovery Fund**

The investment strategy for funds received into the Recovery Fund is to place funds in either authorized investments set forth in this policy, or in the Texas Treasury Safekeeping Trust Company, with amounts and maturities determined using the following priorities in order of importance:

- (1) the suitability of the investment to the available balances and anticipated needs of the Recovery Fund
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

### **Strategy for the Mortgage Grant Fund**

The investment strategy for funds received into the Mortgage Grant Fund is to place funds in either authorized investments set forth in this policy, or in the Texas Treasury Safekeeping Trust Company, with amounts and maturities determined by using the following priorities in order of importance:

- (1) the suitability of the investment to the anticipated needs of the Mortgage Grant Fund,
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

### **Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Department of Savings and Mortgage Lending and safekeeping receipts will be maintained on file.

### **Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

- The investment position of the Funds on the date of the report;
- The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
- The maturity date of each separately invested asset that has a maturity date;
- The compliance, including any non-compliance, of the investment portfolio with this policy;
- Income received and expenses incurred in conjunction with investments; and,
- Any other information as required by the Finance Commission or deemed relevant to this policy. The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

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<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.



# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

## INVESTMENT POLICY

### **Investment Management**

The investment management of the Funds must be of sufficient quality and capability to meet and understand the suitability of the investments to the meet the financial requirements of the Department and each of the Funds.

### **Rates of Return, Market Pricing, and Ratings Changes**

The Department expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing, rating changes, and rates of return on all investments to ensure that their ratings, values, and yields are consistent with risk and meet investment objectives, using the same methods and procedures a prudent investor, exercising reasonable care, skill, and caution, would use.

### **Diversification**

Investments in FDIC-insured deposits, in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin, and in direct U.S. Treasury obligations, are not subject to diversification other than maturity considerations.

### **Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

### **Investment Officer**

The Director of Operations will be the designated primary Investment Officer ("Investment Officer") and is responsible for the funds held and invested by the Department. The Commissioner may designate a secondary Investment Officer who will act as Investment Officer, if the primary Investment Officer is unavailable. The Investment Officer is authorized to:

- Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- Delegate routine business transactions within authorized and established investments; and,
- Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

The Investment Officer may not have a personal business relationship with a business organization offering to engage in an investment transaction with the Department.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within six months of the end of each Legislative session, the Investment Officer will provide a report to the Finance Commission outlining any amendments made to the Public Funds Investment Act and other statutes impacting the agency's investments, and provide recommendations to update the Investment Policy, as needed.

### **Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, market risks, portfolio diversification, and compliance with the Public Funds Investment Act. Any training conducted or approved by any state or federal agency, independent of the Department, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

## INVESTMENT POLICY

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

### **Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of Financial Industry Regulatory Authority (FINRA).

### **Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Department**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Department. Any business organization holding federally insured deposit accounts is exempt from this requirement. A qualified representative of the business organization offering to engage in an investment transaction with the Department shall execute a written acknowledgment (Appendix) that the business organization:

- Has received and reviewed the Investment Policy of the Department; and,
- Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the organization that are not authorized by the Department's investment policy, except to the extent that this authorization:
  - is dependent on an analysis of the makeup of the Department's entire portfolio;
  - requires an interpretation of subjective investment standards; or
  - relates to investment transactions of the Department that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a business organization who has not delivered to the Department the instrument in substantially the form provided.

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<sup>2</sup> A "business organization" means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity's funds.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

## **Appendix Acknowledgment**

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank/trust company) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department of Savings and Mortgage Lending and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

\_\_\_\_\_  
Signature of Qualified Representative

\_\_\_\_\_  
Date

DEPARTMENT OF SAVINGS AND MORTGAGE LENDING  
INVESTMENT POLICY

**Investment Training Report**

<b>Name/Designation</b>	<b>Date</b>	<b>Course</b>	<b>Provider</b>	<b>Hours</b>
Antonia Antov – Primary Investment Officer	August 2021	Texas Public Funds Investment Act	Texas State University	5
Janie Recio – Secondary Investment Officer	August 2020	Texas Public Funds Investment Act	University of North Texas Center for Public Management	10
According to Government Code Sec. 2256.007, investment officer training requirements are on a state fiscal biennium basis.				



## TEXAS DEPARTMENT OF BANKING

★ Dedicated to Excellence in Texas Banking ★

### ADMINISTRATIVE MEMORANDUM – 2027

August 20, 2021

Deleted: August 21, 2020

**TO:** Finance Commission Members  
**FROM:** Charles G. Cooper, Banking Commissioner  
**SUBJECT:** Investment Policy for Funds Under the Oversight of the Finance Commission of Texas

#### Overview

This policy governs the investment of funds maintained by the Texas Department of Banking ("Department"), as well as the investment of funds under its control to the extent the Department has either statutory or court-approved investment authority. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code Ch. 2256), efforts are made to closely follow the Act. This policy does not convey investment authority where such does not exist through statute or the courts. This policy shall be approved by the Finance Commission as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission met on August 20, 2021 to re-approve this policy as revised to clarify content within this memorandum. Previously, this policy was reviewed and approved on August 21, 2020.

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It is the policy of the Department to invest funds in compliance with the following priorities, in order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of the investment portfolio, and,
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's

own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

### Identification of Covered Funds

Funds covered by this policy include funds acquired through seizure of a trust-funded prepaid funeral contract seller, or liquidation of a trust company or uninsured bank.

### Types of Authorized Investments

The fund or a portion of the fund may be placed in the Texas Treasury Safekeeping Trust Company (or its successor). Pursuant to Section 404.106 of the Government Code (Gov't Code), funds held by the Texas Treasury Safekeeping Trust Company are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Section 404.024 of the Gov't Code specifies those obligations in which the Comptroller is authorized to invest.

Insofar as the fund or a portion of the fund is deposited in a financial institution as authorized by Texas Finance Code Section 154.353, the Department may utilize the investment securities listed below. "Maximum allowable maturity," when used in this policy, means the remaining time until the final principal payment on the investment, measured from the date of purchase by the Department.

1. Obligations, including letters of credit, of the United States (U.S.) or its agencies and instrumentalities, including the Federal Home Loan Banks with a maximum allowable maturity of 10 years;
2. Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U.S., the underlying security for which is guaranteed by an agency or instrumentality of the U.S., provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 10 years from the date the collateralized mortgage obligation is acquired by the Department;
4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the U.S. or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the U.S. with a maximum allowable maturity of 10 years;
5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state

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rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent with a maximum allowable maturity of 10 years. If the rating of the issuing entity is downgraded below investment quality during the time an investment is held from that entity, all prudent measures must be taken to liquidate the investment within a reasonable period of time, consistent with the guidelines in this policy;

6. Bonds issued, assumed, or guaranteed by the State of Israel;
7. Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
8. Other interest-bearing deposit accounts not described above if:
  - a. The funds are invested through a broker with a main office or branch office in this state as selected by the Department from an approved list, or through a depository institution with a main office or branch office in this state;
  - b. The selected broker or depository institution arranges for deposit of the funds in deposit accounts in one or more federally insured institutions, regardless of where located;
  - c. The full amount of principal and accrued interest in such deposit accounts is insured by the U.S. or an instrumentality of the U.S.; and
  - d. The Department appoints a custodian of the deposit accounts that is:
    - i. The depository institution selected to broker the deposits;
    - ii. A state or national bank designated by the comptroller as a state depository with its main office or a branch office in this state, that has capital stock and surplus of \$5 million or more;
    - iii. The Texas Treasury Safekeeping Trust Company;
    - iv. A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - v. A Federal Home Loan Bank;
    - vi. A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian; or
    - vii. A clearing broker dealer registered with the Securities and Exchange Commission (SEC) and operating under SEC Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).
9. A certificate of deposit issued by a depository institution that has its main office or a branch office in this state, if the certificate:
  - a. Is guaranteed or insured by the FDIC, or its successor;
  - b. Is secured by obligations described by Gov't Code § 2256.009(a) for direct investment by the Department; or
  - c. Is secured as provided under the Public Funds Collateral Act (Gov't Code Chapter 2257); and

- d. Does not have a maturity exceeding 36 months.

A certificate of deposit must be fully secured as described above but may be secured by a combination of the listed alternatives.

Bids for certificates of deposit may be solicited:

- Orally;
- In writing;
- Electronically; or
- In any combination of those methods.

10. A repurchase agreement, collateralized on a daily basis at a minimum of 102% of market value, including a direct security repurchase agreement and a reverse security repurchase agreement that:

- a. With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
- b. Is secured by a combination of cash and obligations described by Gov't Code § 2256.009(a)(1) or § 2256.013;
- c. Requires securities being purchased or cash held by the Department to be pledged to the Department, held in the Department's name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
- d. Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
- e. Requires that money received under the terms of a reverse security repurchase agreement must be used to acquire additional authorized investments, but the term of the authorized investments required must mature not later than the expiration date stated in the reverse security repurchase agreement.

11. A no-load money market mutual fund that:

- a. Is registered with and regulated by the SEC;
- b. Provides the Department with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940; and
- c. Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).

12. A no-load mutual fund that:

- a. Is registered with the SEC;
- b. Has an average weighted maturity of less than two years; and
- c. Either:



- i. Has a duration of one year or more and are invested exclusively in obligations authorized in this policy; or
- ii. Has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

In general, investments that were authorized at the time they were purchased or received through liquidation or seizure may be retained under this policy even if later revisions of the policy render the investments in noncompliance. One exception is any investment that requires a minimum rating if the rating declines to below the minimum. The investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270, effective September 1, 2017. These divestiture requirements expire in 2037.

Investments obtained or purchased by court-appointed liquidators acting on behalf of the Banking Commissioner will be reported to the Finance Commission; however, such investments are not subject to the provisions of this policy.

Any noncomplying investments received through liquidation or seizure will be reported by the Investment Officer to the Finance Commission at the next Finance Commission meeting when a quarterly report is presented. At the time they are initially reported, the Finance Commission may either approve a plan for divestiture, or accept an investment as noncomplying under the policy, with a specific rationale for retaining it. If noncomplying investments are retained, the Investment Officer shall present a plan to the Finance Commission to protect the investments from loss to the extent possible. All noncomplying investments will be identified as exceptions in quarterly reports to the Commission.

#### Unauthorized Investments

The following are not authorized investments under this policy:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index;
5. No portion of bond proceeds, reserves and funds held for debt service may be invested in no-load mutual funds described in Gov't Code § 2256.014(b); and

6. Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist organization.<sup>1</sup>

### Strategies for Covered Funds

The investment strategy for funds acquired through seizure of a trust-funded prepaid funeral contract seller, or trust company or uninsured bank in liquidation is to maintain investments seized in the seized entity's existing investment vehicle until potential legal challenges to the Department's seizure are resolved. Thereafter, if funds are in unauthorized investments, the Investment Officer will reinvest funds into authorized investments as it becomes prudent to do so. If funds are anticipated to be held for less than one year, funds may be placed in the Texas Treasury Safekeeping Trust Company, subject to an agreement with that company. Otherwise, funds will be invested in authorized investments as set forth elsewhere in this policy. Investments will be of a diverse nature, with maturities and cash flows structured to accommodate the anticipated distributions from the seizure or liquidation. Court-appointed liquidators will be used when possible to manage funds under liquidation.

### Safekeeping of Investments

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Texas Department of Banking and safekeeping receipts will be maintained on file.

### Reporting

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

1. The investment position of the Department on the date of the report;
2. The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
3. The maturity date of each separately invested asset that has a maturity date;
4. The fund for which each individual investment was acquired;
5. The statement of compliance, including any non-compliance, of the investment portfolio with this policy;
6. Income received and expenses incurred in conjunction with investments; and,
7. Any other information as required by the Finance Commission.

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<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

#### Rates of Return, Market Pricing, and Ratings Changes

The Department expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. Higher rates of return will be targeted on the more aggressive and longer term investment products. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing, rating changes, and rates of return on all investments to ensure that their ratings, values and yields are consistent with risk and meet investment objectives. The Investment Officer will use the same methods and procedures as a prudent investor, exercising reasonable care, skill, and caution.

#### **Diversification**

Investments in FDIC-insured deposits (or in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin) and in direct U.S. Treasury obligations are not subject to diversification other than maturity considerations. For investments other than those just listed, diversification shall be as follows:

1. The aggregate investment in no-load mutual funds described in Gov't Code § 2256.014(b) may not exceed 15% of the monthly average fund balance of a covered investment fund held by the Department, excluding bond proceeds and reserves and other funds held for debt service;
2. No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
3. Investment in any one mutual fund may not exceed 10% of the total assets of the mutual fund.

#### **Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

#### **Investment Officer**

The Director of the Non-Depository Supervision Division is designated as the primary Investment Officer and is responsible for the investment of the funds held and invested by the Department. The Chief Financial Officer is designated as the secondary Investment Officer and will perform the functions of the primary Investment Officer, if the primary Investment Officer is unavailable. The Investment Officer is authorized to:

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1. Obtain external investment expertise if deemed necessary to fulfill investment objectives;
2. Delegate routine business transactions within authorized and established investments; and,
3. Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

The Investment Officer may not have a personal business relationship with a business organization offering to engage in an investment transaction with the Department.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within six months of the end of each Legislative session, if amendments have been made to the Public Funds Investment Act, the Investment Officer will provide a report to the Finance Commission outlining the amendments and provide recommendations to update the Investment Policy.

#### **Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, market risks, portfolio diversification, and compliance with the Public Funds Investment Act.

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Any training conducted or approved by any state or federal agency, independent of the Department of Banking, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

#### **Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of the Financial Industry Regulatory Authority (FINRA) and the

Securities Investor Protection Corporation (SIPC). [The quality of all investments must meet the needs of the agency and be managed in accordance with this policy.](#)

#### **Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Department**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Department. Any business organization holding federally insured deposit accounts that come under the Department's control, through a seizure or liquidation are exempt from this requirement. A qualified representative of the business organization offering to engage in an investment transaction with the Department shall execute a written acknowledgment, as provided in the Appendix, that the business organization:

1. Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
2. Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the organization that are not authorized by the Department's investment policy, except to the extent that this authorization:
  - a. [is dependent on an analysis of the makeup of the Department's entire portfolio;](#)
  - b. [requires an interpretation of subjective investment standards; or](#)
  - c. relates to investment transactions of the Department that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

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The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a business organization who has not delivered to the Department the instrument in substantially the form provided.

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<sup>2</sup> A "business organization" means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity's funds.

## Appendix

### Acknowledgment

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank/trust company) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department of Banking and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

\_\_\_\_\_  
Signature of Qualified Representative

\_\_\_\_\_  
Date



# ***TEXAS DEPARTMENT OF BANKING***

***★ Dedicated to Excellence in Texas Banking ★***

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## **ADMINISTRATIVE MEMORANDUM – 2027**

**August 20, 2021**

**TO:** Finance Commission Members

**FROM:** Charles G. Cooper, Banking Commissioner

**SUBJECT:** Investment Policy for Funds Under the Oversight of the Finance Commission of Texas

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### **Overview**

This policy governs the investment of funds maintained by the Texas Department of Banking ("Department"), as well as the investment of funds under its control to the extent the Department has either statutory or court-approved investment authority. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code Ch. 2256), efforts are made to closely follow the Act. This policy does not convey investment authority where such does not exist through statute or the courts. This policy shall be approved by the Finance Commission as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission met on August 20, 2021 to re-approve this policy as revised to clarify content within this memorandum. Previously, this policy was reviewed and approved on August 21, 2020.

It is the policy of the Department to invest funds in compliance with the following priorities, in order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of the investment portfolio, and,
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's

own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

### **Identification of Covered Funds**

Funds covered by this policy include funds acquired through seizure of a trust-funded prepaid funeral contract seller, or liquidation of a trust company or uninsured bank.

### **Types of Authorized Investments**

The fund or a portion of the fund may be placed in the Texas Treasury Safekeeping Trust Company (or its successor). Pursuant to Section 404.106 of the Government Code (Gov't Code), funds held by the Texas Treasury Safekeeping Trust Company are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Section 404.024 of the Gov't Code specifies those obligations in which the Comptroller is authorized to invest.

Insofar as the fund or a portion of the fund is deposited in a financial institution as authorized by Texas Finance Code Section 154.353, the Department may utilize the investment securities listed below. "Maximum allowable maturity," when used in this policy, means the remaining time until the final principal payment on the investment, measured from the date of purchase by the Department.

1. Obligations, including letters of credit, of the United States (U.S.) or its agencies and instrumentalities, including the Federal Home Loan Banks with a maximum allowable maturity of 10 years;
2. Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U.S., the underlying security for which is guaranteed by an agency or instrumentality of the U.S., provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 10 years from the date the collateralized mortgage obligation is acquired by the Department;
4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the U.S. or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the U.S. with a maximum allowable maturity of 10 years;
5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state



rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent with a maximum allowable maturity of 10 years. If the rating of the issuing entity is downgraded below investment quality during the time an investment is held from that entity, all prudent measures must be taken to liquidate the investment within a reasonable period of time, consistent with the guidelines in this policy;

6. Bonds issued, assumed, or guaranteed by the State of Israel;
7. Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
8. Other interest-bearing deposit accounts not described above if:
  - a. The funds are invested through a broker with a main office or branch office in this state as selected by the Department from an approved list, or through a depository institution with a main office or branch office in this state;
  - b. The selected broker or depository institution arranges for deposit of the funds in deposit accounts in one or more federally insured institutions, regardless of where located;
  - c. The full amount of principal and accrued interest in such deposit accounts is insured by the U.S. or an instrumentality of the U.S.; and
  - d. The Department appoints a custodian of the deposit accounts that is:
    - i. The depository institution selected to broker the deposits;
    - ii. A state or national bank designated by the comptroller as a state depository with its main office or a branch office in this state, that has capital stock and surplus of \$5 million or more;
    - iii. The Texas Treasury Safekeeping Trust Company;
    - iv. A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - v. A Federal Home Loan Bank;
    - vi. A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian; or
    - vii. A clearing broker dealer registered with the Securities and Exchange Commission (SEC) and operating under SEC Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).
9. A certificate of deposit issued by a depository institution that has its main office or a branch office in this state, if the certificate:
  - a. Is guaranteed or insured by the FDIC, or its successor;
  - b. Is secured by obligations described by Gov't Code § 2256.009(a) for direct investment by the Department; or
  - c. Is secured as provided under the Public Funds Collateral Act (Gov't Code Chapter 2257); and

- d. Does not have a maturity exceeding 36 months.

A certificate of deposit must be fully secured as described above but may be secured by a combination of the listed alternatives.

Bids for certificates of deposit may be solicited:

- Orally;
  - In writing;
  - Electronically; or
  - In any combination of those methods.
10. A repurchase agreement, collateralized on a daily basis at a minimum of 102% of market value, including a direct security repurchase agreement and a reverse security repurchase agreement that:
- a. With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
  - b. Is secured by a combination of cash and obligations described by Gov't Code § 2256.009(a)(1) or § 2256.013;
  - c. Requires securities being purchased or cash held by the Department to be pledged to the Department, held in the Department's name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
  - d. Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
  - e. Requires that money received under the terms of a reverse security repurchase agreement must be used to acquire additional authorized investments, but the term of the authorized investments required must mature not later than the expiration date stated in the reverse security repurchase agreement.
11. A no-load money market mutual fund that:
- a. Is registered with and regulated by the SEC;
  - b. Provides the Department with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940; and
  - c. Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).
12. A no-load mutual fund that:
- a. Is registered with the SEC;
  - b. Has an average weighted maturity of less than two years; and
  - c. Either:

- i. Has a duration of one year or more and are invested exclusively in obligations authorized in this policy; or
- ii. Has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

In general, investments that were authorized at the time they were purchased or received through liquidation or seizure may be retained under this policy even if later revisions of the policy render the investments in noncompliance. One exception is any investment that requires a minimum rating if the rating declines to below the minimum. The investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270, effective September 1, 2017. These divestiture requirements expire in 2037.

Investments obtained or purchased by court-appointed liquidators acting on behalf of the Banking Commissioner will be reported to the Finance Commission; however, such investments are not subject to the provisions of this policy.

Any noncomplying investments received through liquidation or seizure will be reported by the Investment Officer to the Finance Commission at the next Finance Commission meeting when a quarterly report is presented. At the time they are initially reported, the Finance Commission may either approve a plan for divestiture, or accept an investment as noncomplying under the policy, with a specific rationale for retaining it. If noncomplying investments are retained, the Investment Officer shall present a plan to the Finance Commission to protect the investments from loss to the extent possible. All noncomplying investments will be identified as exceptions in quarterly reports to the Commission.

### **Unauthorized Investments**

The following are not authorized investments under this policy:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index;
5. No portion of bond proceeds, reserves and funds held for debt service may be invested in no-load mutual funds described in Gov't Code § 2256.014(b); and

6. Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist organization.<sup>1</sup>

### **Strategies for Covered Funds**

The investment strategy for funds acquired through seizure of a trust-funded prepaid funeral contract seller, or trust company or uninsured bank in liquidation is to maintain investments seized in the seized entity's existing investment vehicle until potential legal challenges to the Department's seizure are resolved. Thereafter, if funds are in unauthorized investments, the Investment Officer will reinvest funds into authorized investments as it becomes prudent to do so. If funds are anticipated to be held for less than one year, funds may be placed in the Texas Treasury Safekeeping Trust Company, subject to an agreement with that company. Otherwise, funds will be invested in authorized investments as set forth elsewhere in this policy. Investments will be of a diverse nature, with maturities and cash flows structured to accommodate the anticipated distributions from the seizure or liquidation. Court-appointed liquidators will be used when possible to manage funds under liquidation.

### **Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Texas Department of Banking and safekeeping receipts will be maintained on file.

### **Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

1. The investment position of the Department on the date of the report;
2. The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
3. The maturity date of each separately invested asset that has a maturity date;
4. The fund for which each individual investment was acquired;
5. The statement of compliance, including any non-compliance, of the investment portfolio with this policy;
6. Income received and expenses incurred in conjunction with investments; and,
7. Any other information as required by the Finance Commission.

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<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

### **Rates of Return, Market Pricing, and Ratings Changes**

The Department expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. Higher rates of return will be targeted on the more aggressive and longer term investment products. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing, rating changes, and rates of return on all investments to ensure that their ratings, values and yields are consistent with risk and meet investment objectives. The Investment Officer will use the same methods and procedures as a prudent investor, exercising reasonable care, skill, and caution.

### **Diversification**

Investments in FDIC-insured deposits (or in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin) and in direct U.S. Treasury obligations are not subject to diversification other than maturity considerations. For investments other than those just listed, diversification shall be as follows:

1. The aggregate investment in no-load mutual funds described in Gov't Code § 2256.014(b) may not exceed 15% of the monthly average fund balance of a covered investment fund held by the Department, excluding bond proceeds and reserves and other funds held for debt service;
2. No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
3. Investment in any one mutual fund may not exceed 10% of the total assets of the mutual fund.

### **Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

### **Investment Officer**

The Director of the Non-Depository Supervision Division is designated as the primary Investment Officer and is responsible for the investment of the funds held and invested by the Department. The Chief Financial Officer is designated as the secondary Investment Officer and will perform the functions of the primary Investment Officer, if the primary Investment Officer is unavailable. The Investment Officer is authorized to:

1. Obtain external investment expertise if deemed necessary to fulfill investment objectives;
2. Delegate routine business transactions within authorized and established investments; and,
3. Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

The Investment Officer may not have a personal business relationship with a business organization offering to engage in an investment transaction with the Department.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within six months of the end of each Legislative session, if amendments have been made to the Public Funds Investment Act, the Investment Officer will provide a report to the Finance Commission outlining the amendments and provide recommendations to update the Investment Policy.

### **Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, market risks, portfolio diversification, and compliance with the Public Funds Investment Act.

Any training conducted or approved by any state or federal agency, independent of the Department of Banking, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

### **Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of the Financial Industry Regulatory Authority (FINRA) and the

Securities Investor Protection Corporation (SIPC). The quality of all investments must meet the needs of the agency and be managed in accordance with this policy.

**Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Department**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Department. Any business organization holding federally insured deposit accounts that come under the Department's control, through a seizure or liquidation are exempt from this requirement. A qualified representative of the business organization offering to engage in an investment transaction with the Department shall execute a written acknowledgment, as provided in the Appendix, that the business organization:

1. Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
2. Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the organization that are not authorized by the Department's investment policy, except to the extent that this authorization:
  - a. is dependent on an analysis of the makeup of the Department's entire portfolio;
  - b. requires an interpretation of subjective investment standards; or
  - c. relates to investment transactions of the Department that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a business organization who has not delivered to the Department the instrument in substantially the form provided.

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<sup>2</sup> A "business organization" means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity's funds.

## Appendix

### Acknowledgment

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank/trust company) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department of Banking and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

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Signature of Qualified Representative

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Date



## **Texas Department of Banking Investment Officer Training**

<b>Name of Investment Officer</b>	<b>Date Training Completed</b>	<b>Course Name</b>	<b>Course Sponsor</b>	<b>Hours</b>
Jesse Saucillo	February 5, 2021	Texas Public Funds Investment Act	University of North Texas Center for Public Management	5 hours
Sami Chadli	August 2, 2021	Public Funds Investment Act Training	Texas State University's Office of Distance & Extended Learning	5 hours

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**Office of Consumer Credit Commissioner**  
**Operating Statement and Budget Analysis**  
**For the Quarter Ending May 31, 2021**

	FY 2020 ACTUAL	FY 2021 BUDGET	QUARTER PERFORMANCE				FY 2021 PERFORMANCE			
			3rd Quarter BUDGET	3rd Quarter ACTUAL	(Over)/Under BUDGET	Percent BUDGET	YTD BUDGET	YTD ACTUAL	(Over)/Under BUDGET	Percent BUDGET
<b>REVENUES</b>										
Industry										
Consumer Lending Industry	\$ 2,182,094	\$ 2,230,185	\$ 39,746	\$ (3,882)	\$ (43,627)	(9.76)%	\$ 2,202,120	\$ 2,032,706	\$ (169,414)	92.30%
Credit Access Industry	1,116,650	1,084,540	43,950	64,600	20,650	146.98%	1,043,261	1,038,475	(4,786)	99.54%
MVSF Industry	1,140,179	3,987,339	281,053	254,178	(26,876)	90.43%	3,708,971	3,930,102	221,131	105.96%
Pawn	848,860	738,158	43,610	124,742	81,132	286.04%	65,266	191,762	126,496	293.81%
Registered Industry of Entities	339,875	314,070	32,716	15,225	(17,491)	46.53%	267,373	311,880	44,507	116.64%
Penalties	68,900	0	0	2,600	2,600	0.00%	0	26,100	26,100	0.00%
Miscellaneous Revenue	115,626	58,000	14,579	1,210	(13,369)	8.29%	44,796	3,774	(41,022)	8.42%
<b>TOTAL REVENUES</b>	<b>\$ 5,812,183</b>	<b>\$ 8,412,292</b>	<b>\$ 455,653</b>	<b>\$ 458,673</b>	<b>\$ 3,020</b>	<b>100.66%</b>	<b>\$ 7,331,787</b>	<b>\$ 7,534,798</b>	<b>\$ 203,012</b>	<b>102.77%</b>
<b>EXPENDITURES</b>										
Personnel Costs										
Employee Compensation	\$ 4,702,643	\$ 5,121,433	\$ 1,280,358	\$ 1,126,927	\$ 153,431	88.01%	\$ 3,841,075	\$ 3,408,988	\$ 432,087	88.75%
Employee Benefits	1,688,213	1,807,730	451,933	394,622	57,311	87.31%	1,355,798	1,190,368	165,430	87.79%
Add'l Health/Retirement	72,429	76,821	19,205	17,678	1,527	92.04%	57,616	53,629	3,987	93.08%
Other Personnel Costs	117,163	71,911	17,978	16,517	1,461	91.87%	53,933	51,644	2,289	95.75%
Subtotal Personnel Costs	\$ 6,580,449	\$ 7,077,896	\$ 1,769,474	\$ 1,555,743	\$ 213,731	87.92%	\$ 5,308,422	\$ 4,704,629	\$ 603,793	88.63%
In-State Travel	\$ 401,900	\$ 633,045	\$ 158,261	\$ 78,263	\$ 79,999	49.45%	\$ 474,784	\$ 117,491	\$ 357,292	24.74%
Out of State - Travel	11,724	2,000	2,500	0	2,500	0.00%	(500)	0	(500)	0.00%
Subtotal Travel	\$ 413,624	\$ 635,045	\$ 160,761	\$ 78,263	\$ 82,499	48.68%	\$ 474,284	\$ 117,491	\$ 356,792	24.77%
Operating Costs										
Professional Services & Fees	\$ 159,436	\$ 263,351	\$ 65,838	\$ 37,754	\$ 28,083	57.34%	\$ 197,513	\$ 72,594	\$ 124,920	36.75%
Consumables	9,905	13,000	3,250	828	2,422	25.47%	9,750	5,583	4,167	57.26%
Office Utilities	16,202	18,500	4,625	3,657	968	79.08%	13,875	9,845	4,029	70.95%
Rent - Building/Space	25,391	26,829	6,707	6,604	104	98.45%	20,122	21,860	(1,738)	108.63%
Rent - Equipment/Other	3,106	3,500	875	900	(25)	102.85%	2,625	2,432	193	92.62%
Communications	70,266	85,405	21,351	18,795	2,557	88.02%	64,049	58,296	5,752	91.01%
Information Technology	166,120	373,016	93,254	83,333	9,921	89.36%	279,762	169,898	109,864	60.72%
Employee Training	3,348	15,000	3,750	2,265	1,485	60.39%	11,250	3,315	7,935	29.46%
Misc. Operating Costs	225,052	332,140	83,035	32,534	50,501	39.18%	249,106	201,173	47,932	80.75%
Subtotal Operating Costs	\$ 678,827	\$ 1,130,741	\$ 282,685	\$ 186,670	\$ 96,015	66.03%	\$ 848,051	\$ 544,997	\$ 303,055	64.26%
<b>TOTAL EXPENDITURES</b>	<b>\$ 7,672,899</b>	<b>\$ 8,843,682</b>	<b>\$ 2,212,920</b>	<b>\$ 1,820,676</b>	<b>\$ 392,244</b>	<b>82.27%</b>	<b>\$ 6,630,757</b>	<b>\$ 5,367,117</b>	<b>\$ 1,263,640</b>	<b>80.94%</b>
<b>EXPENDITURES (OVER) / UNDER REVENUES</b>	<b>\$ (1,860,716)</b>	<b>\$ (431,390)</b>	<b>\$ (1,757,267)</b>	<b>\$ (1,362,003)</b>	<b>\$ 395,264</b>		<b>\$ 701,030</b>	<b>\$ 2,167,681</b>	<b>\$ 1,466,651</b>	

# Office of Consumer Credit Commissioner

## Budget Variance Analysis

### For the Quarter Ending May 31, 2021

**Revenues:** Overall revenues are 3% over budget.

Consumer Lending- The negative variance (~8%) is due to slightly lower rate of renewal for regulated lenders.

MVSF- The variance (6% over budget) results from a renewal rate that was greater than anticipated.

Pawn- The revenue variance (~194% over budget) is due to timing of the renewal period.

Registered entities- The positive variance (17% over budget) is due to increases in registered creditor applications.

Misc Revenue- The negative variance (92% under budget) is due to decreased interest earnings.

**Expenditures:** Overall expenditures are 19% under budget.

Personnel- These expenditures are ~11% under budget primarily due to a planned delay in filling vacant positions.

Travel- Due to travel restrictions in response to covid-19, these expenditures are significantly under budget.

	In- State	Out of State	
	FY21	FY21	TOTAL
Regulatory Supervision	\$113,908.57	\$0.00	\$113,908.57
Development & Training	\$3,323.23	\$0.00	\$3,323.23
Other Reg Activities			\$0.00
Non-Employee	\$259.60		\$259.60
	\$117,491.40	-	\$117,491.40

Professional Services & Fees – This category is currently ~ 63% under budget because costs have not yet been incurred for computer programming services for ALECS upgrades & enhancements, legal services, or financial and accounting services.

Information Technology – This category is ~39% under budget due to timing of projects and expenses.

Communications – This category is ~9% under budget due to expenditures for certain agency services and some telephone services being lower than initially projected.

Employee Training – This category is ~71% under budget due to timing of training sessions.

Misc Operating Costs - This category is ~19% under budget due to lower building maintenance fees than expected and no longer utilizing temporary employment agencies.

**Office of Consumer Credit Commissioner**  
**Liquidity Report**  
**For the Quarter Ending May 31, 2021**

	<b>Actual</b>
Cash at Beginning of Period	\$ 15,040,856.93
Revenues Over (Under) Expenditures	(1,362,003.16)
Increase (Decrease) in Payables/Encumbrances	(19,935.69)
(Increase) Decrease in Receivables	(16,979.33)
Prior period correction	-
<b>Cash at End of Period</b>	<u><u>\$ 13,641,938.75</u></u>

Reserved Cash Balance:	
Building Maintenance/IT	\$ -
Long-term facilities planning	6,277,386.87
Payables (net of receivables)	604,388.27
Lump sums for Retirements	216,670.00
Program Funds	-
Other	-
<b>Total Reserved Cash Balance</b>	<u><u>7,098,445.14</u></u>
Unreserved Cash Balance:	
Future Operations	<u>6,543,493.61</u>
<b>Total Unreserved Cash Balance</b>	<u><u>6,543,493.61</u></u>
 <b>Total Cash Balance</b>	 <u><u>\$ 13,641,938.75</u></u>
 Unreserved Cash / FY 2021 Monthly Budget	 8.9

**Department of Savings and Mortgage Lending**  
**Operating Statement and Budget Analysis**  
**For the Quarter Ending May 31, 2021**

	FY 2020 ACTUAL	FY 2021 BUDGET	QUARTER PERFORMANCE				FY 2021 PERFORMANCE			
			3rd Quarter BUDGET	3rd Quarter ACTUAL	(Over)/Under BUDGET	Percent BUDGET	YTD BUDGET	YTD ACTUAL	(Over)/Under BUDGET	Percent BUDGET
<b>REVENUES</b>										
Thrift Industry										
Assessments	\$ 2,765,352	\$ 3,770,930	\$ 937,502	\$ -	\$ 937,502	0.0%	\$ 2,833,428	\$ 2,047,590	\$ 785,838	72.3%
Application Fees	60,600	20,000	5,000	3,350	1,650	67.0%	15,000	29,350	(14,350)	195.7%
Mortgage Industry										
Licensing Fees	3,877,988	3,229,865	366,260	262,665	103,595	71.7%	2,864,430	3,735,309	(870,879)	130.4%
Administrative Penalties	320,731	-	-	44,416	(44,416)		-	132,434	(132,434)	
Misc. Revenues	101,144	49,000	11,600	6,112	5,488	52.7%	34,800	8,017	26,783	23.0%
<b>TOTAL REVENUES</b>	<b>\$ 7,125,814</b>	<b>\$ 7,069,795</b>	<b>\$ 1,320,362</b>	<b>\$ 316,543</b>	<b>\$ 1,003,819</b>	<b>24.0%</b>	<b>\$ 5,747,658</b>	<b>\$ 5,952,700</b>	<b>\$ (205,042)</b>	<b>103.6%</b>
<b>EXPENDITURES</b>										
Personnel Costs										
Employee Compensation	\$ 3,819,912	\$ 5,235,338	\$ 1,344,209	\$ 1,173,296	\$ 170,913	87.3%	\$ 3,911,128	\$ 3,294,728	\$ 616,400	84.2%
Employee Benefits	1,245,107	1,608,639	407,859	361,713	46,146	88.7%	1,200,774	1,028,678	172,096	85.7%
Add'l Health/Retirement	55,464	78,507	19,851	15,855	3,996	79.9%	58,656	45,790	12,866	78.1%
Other Personnel Costs	145,849	88,174	20,420	50,238	(29,818)	246.0%	64,714	119,435	(54,721)	184.6%
Subtotal Personnel Costs	\$ 5,266,331	\$ 7,010,658	\$ 1,792,339	\$ 1,601,103	\$ 191,236	89.3%	\$ 5,235,272	\$ 4,488,632	\$ 746,640	85.7%
Travel										
In-State	\$ 102,237	\$ 131,691	\$ 52,677	\$ 122	\$ 52,555	0.0%	\$ 79,014	\$ 182	\$ 78,832	0.2%
Out-of-State	40,712	45,500	18,200	-	18,200	0.0%	27,300	-	27,300	0.0%
Subtotal Travel	\$ 142,949	\$ 177,191	\$ 70,877	\$ 122	\$ 70,755	0.0%	\$ 106,314	\$ 182	\$ 106,132	0.0%
Operating Costs										
Professional Fees	\$ 49,923	\$ 110,196	\$ 8,000	\$ 267	\$ 7,733	3.3%	\$ 35,896	\$ 24,055	\$ 11,841	67.0%
Consumables	7,213	12,000	3,500	1,094	2,406	31.3%	9,000	4,562	4,438	50.7%
Office Utilities	13,197	14,244	3,405	2,550	855	74.9%	10,093	8,159	1,934	80.8%
Rent - Space & Equipment	4,336	2,800	650	516	134	79.4%	1,550	1,161	389	74.9%
Communications	75,186	94,726	17,700	16,205	1,495	91.6%	78,426	72,451	5,975	92.4%
Information Technology	188,375	126,537	35,409	71,381	(35,972)	201.6%	88,932	124,797	(35,865)	140.3%
Employee Training	23,025	69,820	22,455	16,891	5,564	75.2%	47,365	36,017	11,348	76.0%
Misc. Operating Costs	108,370	142,023	32,506	25,526	6,980	78.5%	83,238	73,508	9,730	88.3%
Subtotal Operating Costs	\$ 469,624	\$ 572,346	\$ 123,625	\$ 134,430	\$ (10,805)	108.7%	\$ 354,500	\$ 344,711	\$ 9,789	97.2%
<b>TOTAL EXPENDITURES</b>	<b>\$ 5,878,903</b>	<b>\$ 7,760,195</b>	<b>\$ 1,986,841</b>	<b>\$ 1,735,655</b>	<b>\$ 251,186</b>	<b>87.4%</b>	<b>\$ 5,696,086</b>	<b>\$ 4,833,524</b>	<b>\$ 862,562</b>	<b>84.9%</b>
<b>EXPENDITURES (OVER)/ UNDER REVENUES</b>	<b>\$ 1,246,911</b>	<b>\$ (690,400)</b>	<b>\$ (666,479)</b>	<b>\$ (1,419,113)</b>	<b>\$ 752,634</b>		<b>\$ 51,572</b>	<b>\$ 1,119,176</b>	<b>\$ (1,067,604)</b>	

# Department of Savings and Mortgage Lending

## Budget Variance Analysis For the Quarter Ending May 31, 2021

Revenues: Overall revenues are at 3.6% over budget.

Thrift Industry:

Assessments – This category is 23% under budget due to waiving the third quarter assessments.

Application Fees – This category is significantly over budget due to application fees received in excess of budgeted amounts.

Mortgage Industry:

Licensing Revenues – Overall licensing revenues are 30% over budget, the majority of which is attributable to higher than expected new RMLO license applications received.

Fines and Penalties – No amount was budgeted.

Miscellaneous Revenues – This category is under budget, due to lower than budgeted depository interest received.

Expenditures: Overall expenditures are at 15.1% under budget.

Personnel Costs – This category is 14.3% under budget due to unfilled vacancies. Other Personnel Costs subcategory is over budget due to lump sums paid to separating employees.

Travel – Due to the travel restrictions imposed in response to COVID-19 pandemic, travel costs incurred were significantly under budget.

Information Technology – The category is over budget due to implementation costs of a cybersecurity project and costs related to transition of the Department's network to the Data Center, managed by DIR.

# Department of Savings and Mortgage Lending

## Liquidity Report For the Quarter Ending May 31, 2021

	<b>ACTUAL</b>
Cash at Beginning of Period	\$ 13,968,357
Revenues Over (Under) Expenditures CY	(1,419,113)
Revenues Over (Under) Expenditures PY	1,550
Increase (Decrease) in Payables	45,574
(Increase) Decrease in Receivables	22,657
<b>Cash at End of Period</b>	<b>\$ 12,619,025</b>
Reserved Cash Balance:	
Bldg. maintenance/IT	\$ -
Long-term facilities planning	6,278,578
Payables (net of receivables)	610,348
Lump Sums for Retirements	171,021
Program Funds	-
Other	-
<b>Total Reserved Cash Balance</b>	<b>\$ 7,059,946</b>
Unreserved Cash Balance:	
Future Operations	\$ 5,559,080
<b>Total Unreserved Cash Balance</b>	<b>\$ 5,559,080</b>
<b>Total Cash Balance</b>	<b>\$ 12,619,025</b>
Unreserved Cash/FY2021 Monthly Budget	8.6 months



**Texas Department of Banking**  
**Operating Statement and Budget Analysis**  
**For the Quarter Ending May 31, 2021**

	FY 2020 ACTUAL	FY 2021 BUDGET	QUARTER PERFORMANCE				FY 2021 PERFORMANCE			
			3rd Quarter BUDGET	3rd Quarter ACTUAL	(Over)/Under BUDGET	Percent BUDGET	YTD BUDGET	YTD ACTUAL	(Over)/Under BUDGET	Percent BUDGET
<b>REVENUES</b>										
Bank & Trust Regulation	\$22,720,521	\$25,888,937	\$6,935,989	\$6,846,854	\$89,135	98.7%	\$20,538,424	\$20,444,750.68	\$93,673	99.5%
Penalties - Bank & Trust Regulation	10,000	0	0	0	0	0.0%	0	15,000	(15,000)	0.0%
Non-Depository Supervision	2,802,379	3,347,565	860,849	704,879	155,970	81.9%	2,723,029	2,528,623	194,406	92.9%
Penalties - Non-Depository Supervision	648,360	404,900	93,500	155,299	(61,799)	166.1%	315,600	825,800	(510,200)	261.7%
Miscellaneous Revenues	123,425	206,000	76,250	2,119	74,131	2.8%	129,750	6,766	122,984	5.2%
<b>TOTAL REVENUES</b>	<b>\$26,304,685</b>	<b>\$29,847,402</b>	<b>\$7,966,588</b>	<b>\$7,709,151</b>	<b>\$257,436</b>	<b>96.8%</b>	<b>\$23,706,803</b>	<b>\$23,820,940</b>	<b>(\$114,136)</b>	<b>100.5%</b>
<b>EXPENDITURES</b>										
Personnel Costs										
Employee Compensation	\$17,356,529	\$19,557,429	\$4,913,024	\$4,583,815	\$329,208	93.3%	\$14,362,557	\$13,678,624	\$683,934	95.2%
Employee Benefits	4,998,458	5,707,592	1,409,190	1,327,547	81,643	94.2%	4,123,848	3,925,818	198,029	95.2%
Add'l Health/Retirement	248,089	290,645	73,695	66,288	7,407	89.9%	215,438	197,694	17,745	91.8%
Other Personnel Costs	350,095	570,194	66,446	77,441	(10,994)	116.5%	209,342	240,596	(31,254)	114.9%
Subtotal Personnel Costs	\$22,953,171	\$26,125,860	\$6,462,355	\$6,055,092	\$407,264	93.7%	\$18,911,186	\$18,042,732	\$868,454	95.4%
Travel										
In-State	\$791,009	\$968,704	\$349,218	\$10,184	\$339,034	2.9%	\$567,573	\$26,635	\$540,938	4.7%
Out-of-State	330,242	431,616	93,165	0	93,165	0.0%	146,865	0	146,865	0.0%
Subtotal Travel	\$1,121,250	\$1,400,320	\$442,383	\$10,184	\$432,199	2.3%	\$714,438	\$26,635	\$687,803	3.7%
Operating Costs										
Professional Fees	\$232,474	\$331,580	\$130,281	\$35,112	\$95,169	27.0%	\$180,313	\$80,105	\$100,208	44.4%
Consumables	19,871	40,100	15,635	8,788	6,848	56.2%	52,735	21,301	31,434	40.4%
Office Utilities	34,386	42,025	9,328	8,365	963	89.7%	32,697	26,529	6,169	81.1%
Rent - Building/Space	420,591	421,077	104,722	98,969	5,753	94.5%	339,090	329,773	9,317	97.3%
Rent - Equipment/Other	28,087	29,398	6,687	5,910	777	88.4%	20,061	17,732	2,329	88.4%
Communications	257,638	324,025	73,695	74,669	(974)	101.3%	207,691	211,922	(4,231)	102.0%
Information Technology	521,309	495,557	193,375	83,456	109,919	43.2%	376,664	259,487	117,177	68.9%
Employee Training	150,177	244,466	47,295	47,583	(288)	100.6%	20,779	13,193	7,586	63.5%
Misc. Operating Costs	452,211	392,994	88,453	55,313	33,140	62.5%	326,698	284,054	42,644	86.9%
Subtotal Operating Costs	\$2,116,742	\$2,321,222	\$669,471	\$418,165	\$251,306	62.5%	\$1,556,728	\$1,244,096	\$312,632	79.9%
<b>TOTAL EXPENDITURES</b>	<b>\$26,191,164</b>	<b>\$29,847,402</b>	<b>\$7,574,209</b>	<b>\$6,483,440</b>	<b>\$1,090,769</b>	<b>85.6%</b>	<b>\$21,182,351</b>	<b>\$19,313,462</b>	<b>\$1,868,889</b>	<b>91.2%</b>
<b>EXPENDITURES (OVER) / UNDER REVENUES</b>	<b>\$113,522</b>	<b>\$0</b>	<b>\$392,379</b>	<b>\$1,225,711</b>	<b>(\$833,333)</b>		<b>\$2,524,452</b>	<b>\$4,507,477</b>	<b>(\$1,983,025)</b>	

## Texas Department of Banking

**Overview of Budget Variances for the Third Quarter of Fiscal Year 2021** - (Variances in excess of \$1,000 and 5% from budget are reported).

**Non-Depository Supervision** – The variance for the quarter is related to assessment reductions due to the higher collection of penalties than were anticipated.

**Penalties - Non-Depository Supervision** – The variance is due to the higher than anticipated collected penalties primarily from unlicensed money service businesses.

**Miscellaneous Revenues** – The variance for the quarter relates to lower than budgeted interest payments from the Texas Treasury Safekeeping Trust Company (TTSTC). Due to current market conditions, funds on deposit with TTSTC that are invested in repurchase agreements (repos) may not be fully invested due to negative repo interest rates.

**Employee Compensation and Benefits** – The positive variance relates to vacant staff positions. Vacancies in terms of FTEs as of May 31, 2021 are listed below:

Administrative	10
Examiners	13

**Other Personnel Costs** – The negative variance is due to two unanticipated departures and unbudgeted expenditures related to a return to work employee's applicable surcharge.

### Travel Breakdown

	In-State Travel	Out-of-State Travel
Regulatory Supervision	\$104	\$0
Development and Training	4,387	0
Other Regulatory Activities	4,962	0
Non-Employee	731	0
Total	\$10,184	\$0

**In-State Travel** – The positive variance is due to the COVID-19 pandemic and its effect on travel.

**Out-of-State Travel** – The positive variance is due to the COVID-19 pandemic and its effect on travel.

**Professional Fees** – The positive variance is due to: (1) unexpended funds for a Sunset Advisory Commission compliance review; (2) lower expenditures than budgeted for building related Outside Counsel fees, administrative law judge fees, and Office of the Attorney General fees; and (3) an Information Technology contractor that was not hired as quickly as anticipated.

**Consumables** – The positive variance is due to software charges that did not materialize and lower than anticipated expenditures for general office supplies.

**Rent – Building/Space** – The positive variance is related to in-person meetings that did not occur due to the pandemic and budgeted office rent increases that did not materialize.

**Information Technology** – The positive variance is due to: (1) using an alternate service than what was originally budgeted to complete O365 migration; (2) budgeted network hardware replacement that did not occur; and (3) budgeted system migration and upgrades that did not occur as planned.

**Miscellaneous Operating Costs** – The positive variance is due to the budgeted Statewide Cost Allocation Plan (SWCAP) assessment by the Texas Comptroller's office that was not charged. For fiscal year 2021, the Department received a rebate which resulted in no SWCAP charges.

**TEXAS DEPARTMENT OF BANKING**  
**Liquidity Report**  
**For the Period Ending May 31, 2021**

	<b>Actual</b>
Cash at Beginning of Period	\$18,325,198
Revenues Over (Under) Expenditures	1,225,711
Increase (Decrease) in Payables/Encumbrances	12,018
(Increase) Decrease in Receivables	(19,384)
<b>Cash at End of Period</b>	<b><u>\$19,543,543</u></b>
Reserved Cash Balance:	
Bldg. maintenance/IT	\$0
Long-term facilities planning	6,277,884
Payables (net of receivables)	2,006,476
Lump Sums for Retirements	723,133
Program Funds	0
Other	0
<b>Total Reserved Cash Balance</b>	<b><u>\$9,007,493</u></b>
Unreserved Cash Balance:	
Future Operations	<u>\$10,536,050</u>
<b>Total Unreserved Cash Balance</b>	<b><u>\$10,536,050</u></b>
<b>Total Cash Balance</b>	<b><u>\$19,543,543</u></b>
Unreserved Cash/FY2021 Monthly Budget	4.24 months

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**Office of Consumer Credit Commissioner  
Proposed Budget Fiscal Year 2022**

	<b>Budget 2021</b>	<b>Budget 2022</b>
<b>REVENUE:</b>		
Regulated Lenders	\$ 2,230,185	\$ 2,029,648
Credit Access Industry	1,084,540	998,574
MV Industry	3,987,339	3,684,013
Pawn Industry	738,157	613,919
Registered Industry	314,070	308,813
Miscellaneous Revenues	58,000	6,500
<b>TOTAL REVENUES:</b>	<b>\$ 8,412,291</b>	<b>\$ 7,641,467</b>
<b>EXPENDITURES:</b>		
Personnel Costs		
Employee Compensation	\$ 5,121,433	\$ 4,695,706
Employee Benefits	1,807,730	1,787,758
Add'l Health/Retirement	76,821	74,241
Other Personnel Costs	71,911	122,384
Subtotal Personnel Costs	<b>\$ 7,077,896</b>	<b>6,680,090</b>
Travel		
In-State	633,045	671,750
Out-of-State	10,000	34,750
Out-of-State Reimbursements	(8,000)	(16,000)
Subtotal Travel	<b>635,045</b>	<b>690,500</b>
Other Expenditures		
Professional Fees & Services	263,351	57,466
Consumable Supplies	13,000	12,000
Office Utilities	18,500	17,800
Rent - Buildings/Space	26,829	27,700
Rent - Equipment/Other	3,500	3,000
Communications	85,400	78,455
Information Technology	373,016	489,153
Employee Training	15,000	14,000
Misc. Operating Costs	332,141	280,880
Subtotal Operating Costs	<b>1,130,737</b>	<b>980,454</b>
<b>TOTAL EXPENDITURES:</b>	<b>\$ 8,843,678</b>	<b>\$ 8,351,044</b>
<b>EXPENDITURES (OVER)/UNDER REVENUE:</b>	<b>\$ (431,387)</b>	<b>\$ (709,577)</b>

**FTE's**

**82**

**80**

**Office of Consumer Credit Commissioner  
Proposed Budget Fiscal Year 2022**

	Budget 2021	Estimated FY 2021	% of 2021 Budget	Budget 2022	\$ Change Budget 2021 to Budget 2022	% Change Budget 2021 to Budget 2022
<b>REVENUE:</b>						
Regulated Lenders	\$ 2,230,185	\$ 2,159,432	96.8%	\$ 2,029,648	\$ (200,537)	-9.0%
Credit Access Industry	1,084,540	1,047,175	96.6%	998,574	(85,966)	-7.9%
MV Industry	3,987,339	4,118,939	103.3%	3,684,013	(303,326)	-7.6%
Pawn Industry	738,157	861,284	116.7%	613,919	(124,238)	-16.8%
Registered Industry	314,070	317,940	101.2%	308,813	(5,257)	-1.7%
Miscellaneous Revenues	58,000	5,465	9.4%	6,500	(51,500)	-88.8%
<b>TOTAL REVENUES:</b>	<b>\$ 8,412,291</b>	<b>\$ 8,510,235</b>	<b>101.2%</b>	<b>\$ 7,641,467</b>	<b>\$ (770,824)</b>	<b>-9.2%</b>
<b>EXPENDITURES:</b>						
Personnel Costs						
Employee Compensation	\$ 5,121,433	\$ 4,499,431	87.9%	\$ 4,695,706	\$ (425,727)	-8.3%
Employee Benefits	1,807,730	1,492,891	82.6%	1,787,758	(19,972)	-1.1%
Add'l Health/Retirement	76,821	70,881	92.3%	74,241	(2,580)	-3.4%
Other Personnel Costs	71,911	83,892	116.7%	122,384	50,473	70.2%
Subtotal Personnel Costs	<b>\$ 7,077,896</b>	<b>\$ 6,147,095</b>	<b>86.8%</b>	<b>6,680,090</b>	<b>(397,806)</b>	<b>-5.6%</b>
Travel						
In-State	633,045	210,723	33.3%	671,750	38,705	6.1%
Out-of-State	10,000	-	0.0%	34,750	24,750	247.5%
Out-of-State Reimbursements	(8,000)	-	0.0%	(16,000)	(8,000)	100.0%
Subtotal Travel	<b>635,045</b>	<b>210,723</b>	<b>33.2%</b>	<b>690,500</b>	<b>55,455</b>	<b>8.7%</b>
Other Expenditures						
Professional Fees & Services	263,351	49,357	18.7%	57,466	(205,885)	-78.2%
Consumable Supplies	13,000	6,055	46.6%	12,000	(1,000)	-7.7%
Office Utilities	18,500	13,478	72.9%	17,800	(700)	-3.8%
Rent - Buildings/Space	26,829	26,190	97.6%	27,700	871	3.2%
Rent - Equipment/Other	3,500	2,882	82.3%	3,000	(500)	-14.3%
Communications	85,400	76,740	89.9%	78,455	(6,945)	-8.1%
Information Technology	373,016	296,260	79.4%	489,153	116,137	31.1%
Employee Training	15,000	4,493	30.0%	14,000	(1,000)	-6.7%
Misc. Operating Costs	332,141	255,961	77.1%	280,880	(51,261)	-15.4%
Subtotal Operating Costs	<b>1,130,737</b>	<b>731,415</b>	<b>64.7%</b>	<b>980,454</b>	<b>(150,283)</b>	<b>-13.3%</b>
<b>TOTAL EXPENDITURES:</b>	<b>\$ 8,843,678</b>	<b>\$ 7,089,233</b>	<b>80.2%</b>	<b>\$ 8,351,044</b>	<b>\$ (492,634)</b>	<b>-5.6%</b>
<b>EXPENDITURES (OVER)/UNDER REVENUE:</b>	<b>\$ (431,387)</b>	<b>\$ 1,421,002</b>		<b>\$ (709,577)</b>	<b>\$ (278,190)</b>	

FTE's

82

80



# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

CAROLINE C. JONES, COMMISSIONER

## Budget Information FY2021-FY2022

	FY 2021 Approved Budget	FY 2022 Proposed Budget
<b>REVENUES</b>		
Thrift Industry		
Assessments	\$ 3,770,930	\$ 3,977,825
Application Fees	20,000	20,000
Mortgage Industry		
Licensing Fees	3,229,865	3,574,250
Administrative Penalties	-	-
Misc. Revenues	49,000	5,000
<b>TOTAL REVENUES</b>	<b>\$ 7,069,795</b>	<b>\$ 7,577,075</b>
<b>EXPENDITURES</b>		
Personnel Costs		
Employee Compensation	\$ 5,235,338	\$ 5,338,176
Employee Benefits	1,608,639	1,701,126
Add'l Health/Retirement	78,507	79,770
Other Personnel Costs	88,174	96,894
Subtotal Personnel Costs	\$ 7,010,658	\$ 7,215,966
Travel		
In-State	\$ 131,691	\$ 127,500
Out-of-State	45,500	34,000
Subtotal Travel	\$ 177,191	\$ 161,500
Operating Costs		
Professional Fees	\$ 110,196	\$ 87,940
Consumables	12,000	12,000
Office Utilities	14,244	14,975
Rent - Space & Equipment	2,800	2,490
Communications	94,726	82,890
Information Technology	126,537	263,449
Employee Training	69,820	69,600
Misc. Operating Costs	142,023	137,143
Subtotal Operating Costs	\$ 572,346	\$ 670,487
<b>TOTAL EXPENDITURES</b>	<b>\$ 7,760,195</b>	<b>\$ 8,047,953</b>
<b>EXPENDITURES (OVER)/ UNDER REVENUES</b>	<b>\$ (690,400)</b>	<b>\$ (470,878)</b>

FTEs

67

70

**Department of Savings and Mortgage Lending**  
**Budget Information**  
**FY2021-FY2022**

	<b>FY 2021 BUDGET</b>	<b>FY 2021 ESTIMATED</b>	<b>% of FY2021 BUDGET</b>	<b>FY2022 BUDGET</b>	<b>\$ Change FY21 Budget to FY22 Budget</b>	<b>% Change FY22 Budget to FY22 Budget</b>
<b>REVENUES</b>						
Thrift Industry						
Assessments	\$ 3,770,930	\$ 2,047,590	54.3%	\$ 3,977,825	\$ 206,895	5.5%
Application Fees	20,000	39,350	196.8%	20,000	-	0.0%
Mortgage Industry						
Licensing Fees	3,229,865	3,975,569	123.1%	3,574,250	344,385	10.7%
Administrative Penalties	-	152,434	0.0%	-	-	
Misc. Revenues	49,000	11,017	22.5%	5,000	(44,000)	-89.8%
<b>TOTAL REVENUES</b>	<b>\$ 7,069,795</b>	<b>\$ 6,225,960</b>	<b>88.1%</b>	<b>\$ 7,577,075</b>	<b>\$ 507,280</b>	<b>7.2%</b>
<b>EXPENDITURES</b>						
Personnel Costs						
Employee Compensation	\$ 5,235,338	\$ 4,510,179	86.1%	\$ 5,338,176	\$ 102,838	2.0%
Employee Benefits	1,608,639	1,404,752	87.3%	1,701,126	92,487	5.7%
Add'l Health/Retirement	78,507	62,222	79.3%	79,770	1,263	1.6%
Other Personnel Costs	88,174	192,438	218.2%	96,894	8,720	9.9%
Subtotal Personnel Costs	\$ 7,010,658	\$ 6,169,592	88.0%	\$ 7,215,966	\$ 205,308	2.9%
Travel						
In-State	\$ 131,691	\$ 1,182	0.9%	\$ 127,500	\$ (4,191)	-3.2%
Out-of-State	45,500	-	0.0%	34,000	(11,500)	-25.3%
Subtotal Travel	\$ 177,191	\$ 1,182	0.7%	\$ 161,500	\$ (15,691)	-8.9%
Operating Costs						
Professional Fees	\$ 110,196	\$ 40,355	36.6%	\$ 87,940	\$ (22,256)	-20.2%
Consumables	12,000	7,562	63.0%	12,000	-	0.0%
Office Utilities	14,244	12,059	84.7%	14,975	731	5.1%
Rent - Space & Equipment	2,800	1,393	49.8%	2,490	(310)	-11.1%
Communications	94,726	81,485	86.0%	82,890	(11,836)	-12.5%
Information Technology	126,537	408,654	323.0%	263,449	136,912	108.2%
Employee Training	69,820	48,647	69.7%	69,600	(220)	-0.3%
Misc. Operating Costs	142,023	103,574	72.9%	137,143	(4,880)	-3.4%
Subtotal Operating Costs	\$ 572,346	\$ 703,730	123.0%	\$ 670,487	\$ 98,141	17.1%
<b>TOTAL EXPENDITURES</b>	<b>\$ 7,760,195</b>	<b>\$ 6,874,503</b>	<b>88.6%</b>	<b>\$ 8,047,953</b>	<b>\$ 287,758</b>	<b>3.7%</b>
<b>EXPENDITURES (OVER)/ UNDER REVENUES</b>	<b>\$ (690,400)</b>	<b>\$ (648,543)</b>		<b>\$ (470,878)</b>	<b>\$ 219,522</b>	
FTEs	67			70		





## Independent Bankers Association of Texas

Bradley H. Tidwell  
IBAT Chairman  
VeraBank, Henderson

Thomas C. Sellers  
IBAT Chairman-Elect  
Alliance Bank, Sulphur Springs

K. Kyle Irwin  
IBAT Secretary-Treasurer  
Western Bank, Gruver

Peter Smith  
Leadership Division Chairman  
American Momentum Bank, Lubbock

Hazem A. Ahmed  
IBAT Education Foundation Chairman  
Independent Financial, Houston

Richard F. Scanio  
Immediate Past Chairman  
American Bank, Corpus Christi

Christopher L. Williston VI, CAE  
President and CEO  
IBAT, Austin

Ursula L. Jimenez, CAE  
Chief Operating Officer  
IBAT, Austin

Stephen Y. Scurlock  
Director of Government Relations  
IBAT, Austin

Curt Nelson  
Director of Membership  
IBAT, Austin

Christy Bussey  
Director of Growth and Development  
IBAT, Austin

Julie Courtney, CAE, CMP  
IBAT Services Inc. President  
IBAT, Austin

Shay Iaconopelli  
IBAT Education Foundation President  
IBAT, Austin

Esmeralda Gonzalez, CAE  
Director of Events  
IBAT, Austin

Karen Neeley  
General Counsel  
IBAT, Austin

August 6, 2021

The Honorable Phillip Holt  
Chairman  
Finance Commission of Texas  
2601 North Lamar Blvd.  
Austin, TX 78705

RE: Savings and Mortgage Lending Department FY 2022 Budget

Dear Chairman Holt:

The Independent Bankers Association of Texas (IBAT) is pleased to offer our comments and observations on the Texas Savings and Mortgage Lending Department's FY 2022 budget on behalf of our state savings bank members in Texas.

We have reviewed the budget information posted on the Finance Commission website along with additional backup information provided by the Department.

IBAT is supportive of this budget, which reflects a modest increase in revenue and expenditures when compared to budgeted numbers for the last fiscal year. The Department continues to focus resources on retention of tenured staff, which we believe to be a most appropriate expenditure of funds. Additionally, we are advised that a significant expenditure is anticipated to bolster cybersecurity protocols, which is obviously an appropriate investment. Further, we are advised that a projected deficit will be absorbed by existing reserves.

The Department continues to operate in an efficient manner and has been a good steward of the funds provided by the state savings banks under their regulation. IBAT is fully supportive of this budget to provide for appropriate funding of this agency to allow it to carry out its mission.

IBAT very much appreciates the excellent working relationship and ongoing open communication we have with the Texas Department of Savings and Mortgage Lending.

Thank you for considering our comments and for your service to Texas.

Sincerely,

Stephen Y. Scurlock  
Director of Government Relations  
Counsel

Meredyth Fowler  
Legislative



August 6, 2021

Philip A. Holt, Chair  
Texas Finance Commission  
2601 North Lamar Boulevard  
Austin, TX 78705

Dear Mr. Chairman:

The Texas Bankers Association is pleased to support the Texas Department of Savings and Mortgage Lending's Proposed Fiscal Year 2022 Budget. Commissioner Jones and her staff continue to demonstrate responsible stewardship of the Department's resources and are effective regulators for the entities they supervise.

As the state savings bank and mortgage industries expand, the need for well-trained and well-compensated staff for the Department continues to grow. We are pleased that this year's budget reflects an increase of three FTEs as we believe this is necessary to support a thriving future for the thrift and mortgage industries in the State of Texas. Furthermore, the Department's self-funding, self-leveling nature, along with its Self-Directed, Semi-Independent status, provides the agency with flexibility should it need to adapt to market changes over the next fiscal year.

We are also proud to support the investment in information technology the Fiscal Year 2022 budget proposes. Cybersecurity is one of the greatest challenges facing Texas banks, and it is essential that our state regulators are equipped to proactively address cybersecurity threats. The Department's proposed information technology budget for FY 2022 reflects its commitment to this critically important function.

TBA's state savings bank members support the paying of assessments necessary and appropriate to carry out their supervision and regulation. We are pleased that the proposed budget ensures that each industry the Department oversees continues to pay the full cost of its own regulation.

Please do not hesitate to contact me if you have any questions about the above or if you would like to discuss further. Thank you in advance for your consideration of these comments in support of the Department of Savings and Mortgage Lending's Proposed Fiscal Year 2022 Budget on behalf of the Texas Bankers Association.

Finally, we thank and commend Commissioner Jones for her dedicated service to the Texas Department of Savings and Mortgage Lending and TBA joins the Finance Commission in wishing her all the best in her retirement.

Sincerely,

Chris Furlow  
President & CEO

**Texas Department of Banking  
Proposed Budget - FY 2022**

	Budget 2021	Budget 2022*
<b>REVENUE</b>		
Bank & Trust Regulation	\$25,888,937	\$28,025,383
Penalties - Bank & Trust Regulation	0	0
Non-Depository Supervision	3,347,565	2,929,920
Penalties - Non-Depository Supervision	404,900	349,750
Miscellaneous Revenues	206,000	8,500
<b>TOTAL REVENUES</b>	<b>\$29,847,402</b>	<b>\$31,313,553</b>
<b>EXPENDITURES</b>		
Personnel Costs		
Employee Compensation	\$19,557,429	\$20,300,024
Employee Benefits	5,707,592	5,974,356
Add'l Health/Retirement	290,645	301,068
Other Personnel Costs	570,194	608,946
Subtotal Personnel Costs	\$26,125,860	\$27,184,394
Travel		
In-State	\$968,704	\$1,015,704
Out-of-State	431,616	504,755
Subtotal Travel	\$1,400,320	\$1,520,459
Operating Costs		
Professional Fees	\$331,580	\$461,005
Consumables	40,100	44,500
Office Utilities	42,025	38,838
Rent - Building/Space	421,077	434,544
Rent - Equipment/Other	29,398	30,504
Communications	324,025	269,576
Information Technology	495,557	515,377
Employee Training	244,466	260,548
Misc. Operating Costs	392,994	553,808
Subtotal Operating Costs	\$2,321,222	\$2,608,700
<b>TOTAL EXPENDITURES</b>	<b>\$29,847,402</b>	<b>\$31,313,553</b>
<b>EXPENDITURES (OVER) / UNDER REVENUES</b>	<b>\$0</b>	<b>\$0</b>

FTEs

198

202

\* FY 2022 budgeted assessments are net approximately \$8.7 million in Bank and Trust that are not expected to be assessed to operate the Department.

**Texas Department of Banking  
Proposed Budget - FY 2022**

	Budget 2021	Estimated FY 2021*	% of 2021 Budget	Budget 2022**	\$ Change Budget 2021 to Budget 2022	% Change Budget 2021 to Budget 2022
<b>REVENUE</b>						
Bank & Trust Regulation	\$25,888,937	\$24,361,173	94.10%	\$28,025,383	\$2,136,447	8.25%
Penalties - Bank & Trust Regulation	0	15,000	0.00%	0	0	0.00%
Non-Depository Supervision	3,347,565	2,561,886	76.53%	2,929,920	(417,645)	-12.48%
Penalties - Non-Depository Supervision	404,900	1,105,866	273.12%	349,750	(55,150)	-13.62%
Miscellaneous Revenues	206,000	7,959	3.86%	8,500	(197,500)	-95.87%
<b>TOTAL REVENUES</b>	<b>\$29,847,402</b>	<b>\$28,051,883</b>	<b>93.98%</b>	<b>\$31,313,553</b>	<b>\$1,466,151</b>	<b>4.91%</b>
<b>EXPENDITURES</b>						
Personnel Costs						
Employee Compensation	\$19,557,429	\$18,324,104	93.69%	\$20,300,024	\$742,595	3.80%
Employee Benefits	5,707,592	5,026,140	88.06%	5,974,356	266,764	4.67%
Add'l Health/Retirement	290,645	250,789	86.29%	301,068	10,423	3.59%
Other Personnel Costs	570,194	573,843	100.64%	608,946	38,753	6.80%
Subtotal Personnel Costs	<b>\$26,125,860</b>	<b>\$24,174,876</b>	<b>92.53%</b>	<b>\$27,184,394</b>	<b>\$1,058,534</b>	<b>4.05%</b>
Travel						
In-State	\$968,704	\$44,493	4.59%	\$1,015,704	\$47,000	4.85%
Out-of-State	431,616	3,900	0.90%	504,755	73,139	16.95%
Subtotal Travel	<b>\$1,400,320</b>	<b>\$48,393</b>	<b>3.46%</b>	<b>\$1,520,459</b>	<b>\$120,139</b>	<b>8.58%</b>
Operating Costs						
Professional Fees	\$331,580	\$129,313	39.00%	\$461,005	\$129,425	39.03%
Consumables	40,100	39,423	98.31%	44,500	4,400	10.97%
Office Utilities	42,025	36,429	86.68%	38,838	(3,187)	-7.58%
Rent - Building/Space	421,077	396,207	94.09%	434,544	13,467	3.20%
Rent - Equipment/Other	29,398	23,722	80.69%	30,504	1,106	3.76%
Communications	324,025	283,634	87.53%	269,576	(54,449)	-16.80%
Information Technology	495,557	329,430	66.48%	515,377	19,820	4.00%
Employee Training	244,466	115,360	47.19%	260,548	16,082	6.58%
Misc. Operating Costs	392,994	376,775	95.87%	553,808	160,814	40.92%
Subtotal Operating Costs	<b>\$2,321,222</b>	<b>\$1,730,293</b>	<b>74.54%</b>	<b>\$2,608,700</b>	<b>\$287,478</b>	<b>12.38%</b>
<b>TOTAL EXPENDITURES</b>	<b>\$29,847,402</b>	<b>\$25,953,562</b>	<b>86.95%</b>	<b>\$31,313,553</b>	<b>\$1,466,151</b>	<b>4.91%</b>
<b>EXPENDITURES (OVER) / UNDER REVENUES</b>	<b>\$0</b>	<b>\$2,098,321</b>		<b>\$0</b>		

FTEs

198

202

4

\* FY 2021 forecast using a combination of estimated projections and annualized June 30, 2021 actuals. To only collect funds needed to operate the Department, FY 2021 Bank and Trust assessments and Non-Depository Supervision assessments were reduced approximately by \$6.9 million and \$895,000, respectively.

\*\* FY 2022 budgeted assessments are net approximately \$8.7 million in Bank and Trust that are not expected to be assessed to operate the Department.



## Independent Bankers Association of Texas

Bradley H. Tidwell  
IBAT Chairman  
VeraBank, Henderson

Thomas C. Sellers  
IBAT Chairman-Elect  
Alliance Bank, Sulphur Springs

K. Kyle Irwin  
IBAT Secretary-Treasurer  
Western Bank, Gruver

Peter Smith  
Leadership Division Chairman  
American Momentum Bank, Lubbock

Hazem A. Ahmed  
IBAT Education Foundation Chairman  
Independent Financial, Houston

Richard F. Scanio  
Immediate Past Chairman  
American Bank, Corpus Christi

Christopher L. Williston VI, CAE  
President and CEO  
IBAT, Austin

Ursula L. Jimenez, CAE  
Chief Operating Officer  
IBAT, Austin

Stephen Y. Scurlock  
Director of Government Relations  
IBAT, Austin

Curt Nelson  
Director of Membership  
IBAT, Austin

Christy Bussey  
Director of Growth and Development  
IBAT, Austin

Julie Courtney, CAE, CMP  
IBAT Services Inc. President  
IBAT, Austin

Shay Iacoponelli  
IBAT Education Foundation President  
IBAT, Austin

Esmeralda Gonzalez, CAE  
Director of Events  
IBAT, Austin

Karen Neeley  
General Counsel  
IBAT, Austin

August 6, 2021

Members of the Finance Commission  
State of Texas  
2601 North Lamar Blvd.  
Austin, TX 78705

RE: Banking Department FY 2022 Budget

Ladies and Gentlemen:

The Independent Bankers Association of Texas (IBAT) is pleased to offer our comments and observations on the Texas Banking Department's FY 2022 budget on behalf of the state-chartered community banks in Texas. We have reviewed the budget posted on the Finance Commission website along with additional and more detailed projections and backup information provided by the Department.

IBAT is supportive of this budget, which reflects a very modest increase in budgeted revenues and expenditures when compared to the last fiscal year. Compensation increases to maintain "close to parity" with the FDIC and several new positions account for the bulk of the increase in year over year expenditures. Trend analysis provided by the Department reflects a steady increase in assets under supervision, as well as favorable trends in efficiency as reflected in the increases in assets per Bank and Trust FTE. Further, the budgeted increase in expenditures reflects the onboarding and oversight of Texas Capital Bank, a large and complex institution in process of conversion to a state charter.

The data also reflects a history of forgiven assessments where the Department did not need additional revenues to operate in a given fiscal year. This has been a topic of conversation in the past, and we wish to take this opportunity to opine that this scenario is completely acceptable and much preferable to the potential of a special assessment to meet any unforeseen budget shortfalls.

We believe the leadership of the Department remains committed to effective and responsive regulatory oversight of our industry and has a proven track record for judiciously expending the funding derived from the state-chartered banks in Texas. Appropriate resources are necessary to maintain the outstanding level of regulatory oversight to which our state-chartered member banks and citizens of Texas have become accustomed. Further, the flexibility afforded the Banking Department through SDSI status

allows for adjustments if necessary to appropriately regulate the state-chartered banking industry.

IBAT appreciates the exemplary efforts of the Department as well as the excellent working relationship and ongoing open communication we enjoy with this agency. Thank you for considering our comments and for your ongoing service to Texas.

Sincerely,



Stephen Y. Scurlock  
Director of Government Relations



Meredyth Fowler  
Legislative Counsel



August 6, 2021

Philip A. Holt, Chair  
Texas Finance Commission  
2601 North Lamar Boulevard  
Austin, TX 78705

Dear Mr. Chairman:

The Texas Bankers Association is pleased to support the Texas Department of Banking's proposed Fiscal Year 2022 budget. The Department's rigorous but fair oversight of the Texas bank and trust industries throughout the pandemic have helped ensure the safety and soundness of Texans' assets.

The Department's FY 2022 budget reflects the growth of the industries it supervises. In part because of Texas' continued economic success, assets held by Texas banks and trust companies have grown more than 22% over the course of the past Fiscal Year. Laudably, the Department's budget has increased less than five percent. Commissioner Cooper and his team have done an excellent job working to contain costs and continue providing regulatory excellence for the Texas banking and trust industries.

The Department's prudent approach to staffing has been thoughtfully prepared and reflects the Department's ongoing commitment to recruit and retain top talent as the industry grows. The modest increase in personnel costs for Fiscal Year 2022 ensures the Department can compete with federal banking agencies, which historically have hired talent away from the state. Should staffing needs change over the course of the year, the Department's Self-Directed, Semi-Independent status ensures that it has the budgetary flexibility it needs should additional FTEs need to be added during FY 2022.

Commissioner Cooper and his dedicated staff are to be commended for their efforts on behalf of Texans as they worked to ensure the continued stability and success of the Texas banking system during the pandemic. We are particularly grateful for the Department's collaboration to combat cybersecurity threats during this challenging time for our state and nation.

Please do not hesitate to contact me if you would like to discuss the above in further detail. Thank you in advance for your thoughtful consideration.

Sincerely,

Chris Furlow  
President & CEO

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**OFFICE OF CONSUMER CREDIT COMMISSIONER**  
Austin, Texas

**INTERNAL AUDIT ANNUAL REPORT**

Fiscal Year 2021



Garza/Gonzalez & Associates  
CERTIFIED PUBLIC ACCOUNTANTS

OFFICE OF CONSUMER CREDIT COMMISSIONER  
Austin, Texas

Annual Internal Audit Report  
Fiscal Year 2021

TABLE OF CONTENTS

	<u>Page</u>
Internal Auditor's Report.....	1
Introduction.....	2
Internal Audit Objectives.....	3
I. Compliance with Texas Government Code 2102: Required Posting of Internal Audit Information .....	4
II. Consulting and Nonaudit Services Completed.....	4
III. External Quality Assurance Review.....	4
IV. Internal Audit Plan for Fiscal Year 2021.....	4-6
V. Executive Summary Fiscal Division (Includes Fixed Assets & Travel) Background.....	7-9
Audit Objective, Scope, and Methodology.....	10-11
VI. Observations/Findings and Recommendations Summary and Related Rating of Observations/Findings and Recommendations .....	12
Observations/Findings and Recommendations .....	13-15
VII. External Audit Services Procured in Fiscal Year 2021 .....	16
VIII. Reporting Suspected Fraud and Abuse.....	16
IX. Proposed Internal Audit Plan for Fiscal Year 2022.....	16
X. Organizational Chart .....	17
ATTACHMENT	
Attachment – History of Areas Audited .....	18

# Garza/Gonzalez & Associates

CERTIFIED PUBLIC ACCOUNTANTS

Finance Commission Members and Audit Committee Members  
Office of Consumer Credit Commissioner  
Austin, Texas

We performed tests of management's assertion about the effectiveness and efficiency of the Office of Consumer Credit Commissioner's (OCCC) internal control structure, as implemented by the Fiscal Division over Fixed Assets and Travel (Area), and its established policies and procedures, as applicable to the Area, for the purpose of determining OCCC's compliance with applicable laws and regulations provided in the Texas Government Code, for the 7 months ended March 31, 2021.

The results of our tests disclosed that the internal control structure over the Area and the established policies and procedures, were generally adequate and no material instances of noncompliance were noted; however, we did identify certain matters, included in this report, that are opportunities for strengthening internal controls and ensuring compliance with state requirements and OCCC's established policies and procedures. Based on the degree of risk or effect of these matters in relation to the audit objective(s), these matters were rated as either Priority, High, Medium, or Low, which is further described in the "Summary and Related Rating of Observations/Findings and Recommendations", which is included in page 12 of this report.

We also performed a follow-up of the findings and recommendations that were presented in the prior year internal audit reports, and this report reflects the results and implementation status of our follow-up procedures performed; and, includes all information required for compliance with the State of Texas Internal Audit Annual Report requirements.

We have discussed the comments and recommendations from the audit of the Area; and, the implementation status from the follow-up performed, with various OCCC personnel; and, will be pleased to discuss them in further detail; to perform an additional study of these matters; or, to assist you in implementing the recommendations made.



May 20, 2021

## OFFICE OF CONSUMER CREDIT COMMISSIONER

Internal Audit Annual Report

Fiscal Year 2021

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### INTRODUCTION

The Office of Consumer Credit Commissioner (OCCC) operates pursuant to Chapter 14 of the Texas Finance Code, and under the oversight of the Finance Commission of Texas, who appoints the Consumer Credit Commissioner. OCCC has authority to regulate consumer credit transactions and interest rates in Texas, offers protection to consumers, coordinates educational efforts aimed at consumers and industry alike, and advises lenders on compliance issues.

OCCC's primary task is to license and perform examination of licensed industries; such as, motor vehicle sales finance companies, regulated lenders, payday/title loan lenders, and pawnshops/pawn employees; and, oversee registered industries such as debt management and settlement providers and registered creditors.

OCCC was granted Self-Directed, Semi Independent (SDSI) status in the 81st Legislative Session. As an SDSI agency, OCCC is not required to have their budget approved by the Legislature; however, the Finance Commission is responsible for setting OCCC's spending authority or limits. OCCC's operating funds are generated from fees assessed to the businesses it supervises and are used to fund both direct and indirect costs. General revenue funds are not used to support OCCC's operations.

### 2021 Internal Audit Plan

Following are the internal audit functions performed, as identified in OCCC's 2021 Internal Audit Plan, dated November 18, 2020 and approved by the Audit Committee and Finance Commission on December 11, 2020:

- Risk Assessment & Preparation of the 2021 Internal Audit Plan
- TFEE Fund Investment Portfolio Administration Audit
- Fiscal Division Audit (Includes Fixed Assets & Travel)
- Follow-up of Prior Year Internal Audits
- Preparation of the 2021 Internal Audit Annual Report
- Other Tasks

This report contains the results of our audit of the Fiscal Division Area; reflects the results of the follow-up procedures performed in the current year of the findings that were presented in the prior year internal audit reports; and, meets the State of Texas Internal Audit Annual Report requirements. The report of the TFEE Fund Investment Portfolio Administration Audit, dated March 19, 2021, was presented to, and approved by, the Audit Committee and Finance Commission at the April 16, 2021 meetings.

## OFFICE OF CONSUMER CREDIT COMMISSIONER

Internal Audit Annual Report

Fiscal Year 2021

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### INTERNAL AUDIT OBJECTIVES

In accordance with the **International Standards for the Professional Practice of Internal Auditing**, the audit scope encompassed the examination and evaluation of the adequacy and effectiveness of OCCC's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope included the following objectives:

- **Reliability and Integrity of Financial and Operational Information** – Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Policies, Procedures, Laws, Regulations, and Contracts** – Review the systems established to ensure compliance with those policies, procedures, laws, regulations, and contracts which could have a significant impact on operations and reports, and determine whether the organization is in compliance.
- **Safeguarding of Assets** – Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Effectiveness and Efficiency of Operations and Programs** – Appraise the effectiveness and efficiency with which resources are employed.
- **Achievement of the Organization's Strategic Objectives** – Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

## OFFICE OF CONSUMER CREDIT COMMISSIONER

### Internal Audit Annual Report

Fiscal Year 2021

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#### I. Compliance with Texas Government Code 2102: Required Posting of Internal Audit Information

To comply with the provisions of Texas Government Code, 2102.015 and the State Auditor's Office guidelines, within 30 days after approval by the Finance Commission, OCCC will post the following information on its website:

- An approved fiscal year 2022 audit plan, as provided by Texas Government Code, Section 2102.008.
- A fiscal year 2021 internal audit annual report, as required by Texas Government Code, Section 2102.009.

The periodic and annual internal audit reports include any weaknesses, deficiencies, wrongdoings, or other concerns raised by internal audits and other functions performed by the internal auditor as well as the summary of the action taken by OCCC to address such concerns.

#### II. Consulting and Nonaudit Services Completed

The internal auditor did not perform any consulting services, as defined in the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* or any non-audit services, as defined in the *Government Auditing Standards, 2018* Revision, Sections 3.64-3.106.

#### III. External Quality Assurance Review

The internal audit department's most recent *System Review Report*, dated November 16, 2018, indicates that its system of quality control has been suitably designed and conforms to applicable professional standards in all material respects.

#### IV. Internal Audit Plan for Fiscal Year 2021

The approved Internal Audit Plan (Plan) included two audits to be performed during fiscal year 2021. The Plan also included a follow-up of the prior year internal audit recommendations that were not fully implemented as of fiscal year ended August 31, 2020, other tasks as may have been assigned by the Finance Commission or the Audit Committee, and preparation of the Internal Audit Annual Report for fiscal year 2021.

##### **Risk Assessment**

Utilizing information obtained through the completed questionnaires received and background information reviewed, 17 audit areas were identified as potential audit topics. A risk analysis utilizing 8 risk factors, was completed for each of the 17 potential audit topics and then compiled to develop an overall risk assessment.

**OFFICE OF CONSUMER CREDIT COMMISSIONER**

## Internal Audit Annual Report

Fiscal Year 2021

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Following are the results of the risk assessment performed for the 17 potential audit topics identified:

<b>HIGH RISK</b>	<b>MODERATE RISK</b>	<b>LOW RISK</b>
Fiscal Division (Includes Fixed Assets & Travel)	Revenue Accounting Process	Motor Vehicle Sales Finance Examinations
Procurement/Contract Management/HUB	Complaint Intake and Investigation	Credit Access Business Examinations
Management Information Systems [(MIS) Includes Disaster Recovery Plan]	Legal and Enforcement	Pawn Examinations
Payroll and Human Resources	Regulated Lenders Examinations	Property Tax Lender Examinations
		TFEE Fund Grant Administration
		Business Licensing
		Business Registration
		Records Management
		Professional Licensing (Pawnshop Employees & RMLO)

In the prior 3 years, the following internal audits and other functions were performed:

Fiscal Year 2020:

- Risk Assessment & Preparation of the Internal Audit Plan
- Records Management Audit
- Follow-up of the Prior Year Internal Audits
- Preparation of the Internal Audit Annual Report

Fiscal Year 2019<sup>1</sup>:

- Risk Assessment & Preparation of the Internal Audit Plan
- Investment Administration Controls Audit (*Required Periodic Audit*)
- Information Technology Change Management Program Audit
- Follow-up of the Prior Year Internal Audits
- Preparation of the Internal Audit Annual Report

Fiscal Year 2018:

- Risk Assessment & Preparation of the Internal Audit Plan
- Property Tax Lender Examinations Audit
- Follow-up of the Prior Year Internal Audits
- Preparation of the Internal Audit Annual Report

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<sup>1</sup> Performed by McConnell & Jones LLP.

**OFFICE OF CONSUMER CREDIT COMMISSIONER**

## Internal Audit Annual Report

Fiscal Year 2021

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The internal audits and other tasks performed for fiscal year 2021 were as follows:

<b>Report No.</b>	<b>Audits/Report Titles</b>	<b>Report Date</b>
1.	TFEE Fund Investment Portfolio Administration Audit ( <i>Required Periodic Audit</i> )  <i>Objective:</i> To determine OCCC's compliance with applicable state laws and rules, and established policies and procedures, over the administration of the Texas Financial Education Endowment (TFEE) Fund investment portfolio.	3/19/2021
2.	Fiscal Division Audit (Includes Fixed Assets & Travel)  <i>Objective:</i> To assess the internal control structure, as implemented by the Fiscal Division, over Fixed Assets and Travel (Area), and its established policies and procedures, as applicable to the Area, for the purpose of determining compliance with applicable laws and regulations provided in the Texas Government Code.	5/20/2021
2.	Annual Internal Audit Report – Follow-up of findings and recommendations that were presented in the Prior Year Internal Audit Report	5/20/2021
-	Other Tasks Assigned by the Finance Commission or the Audit Committee	None



## OFFICE OF CONSUMER CREDIT COMMISSIONER

Internal Audit Annual Report

Fiscal Year 2021

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### V. Executive Summary

#### **Fiscal Division (Includes Fixed Assets & Travel)**

##### **Background**

###### Fixed Assets

The Texas Government Code (GV) Chapter 403, Subchapter L, provides state agencies with the requirements for accounting of state property. OCCC has developed internal policies and procedures that reflect processes for compliance with the requirements of this statute. The director of Licensing and Finance has been designated as OCCC's property manager, and is responsible for identifying and accurately recording OCCC property.

OCCC uses the State Property Accounting (SPA) system, which is a component of the Uniform Statewide Accounting System (USAS) and maintained by the Comptroller of Public Accounts (CPA), as its internal property accounting system to record capitalized and controlled assets. The SPA system is utilized by OCCC to generate the required information related to Capital Assets for inclusion in its annual financial report. OCCC uses the capitalization threshold guidance as provided by the CPA. As such, OCCC's capitalized assets, which solely consist of furniture and equipment, are those with an initial unit cost equal to or greater than \$5,000, and have an estimated useful life greater than one year; while, controlled assets are those that do not meet the capitalization threshold, but are considered high-risk, such as computers. As of August 31, 2020, OCCC had capitalized and controlled assets with total initial costs of \$40,863 and \$187,040, respectively. OCCC did not add nor delete property during the audit period from September 1, 2020 to March 31, 2021.

The majority of OCCC's capitalized and controlled assets are IT-related; such as, servers and computers; therefore, purchased property is generally first received by and assigned to the IT department, where a sequential tag number is affixed to each item. The IT department provides a list of serial numbers and associated tag numbers of property to the Property Manager to be recorded in the SPA system. All subsequent changes in location or assignment are tracked using the *Equipment Inventory Control* form (Form). Once the IT department completes initial set-up of equipment and deploys it to an end user, the end user then becomes responsible for physical security and reasonable care of the property. The assigned end user signs the Form and sends it to the Property Manager, who updates applicable property information in the SPA system.

In accordance with the policies and procedures, OCCC performs an annual physical inventory of all agency property, which is reconciled to the SPA system. OCCC completed its most recent physical inventory on August 25, 2020.

###### Travel

The Travel Regulations Act (Act) (GV Chapter 660) governs travel expenditures for state agencies. To ensure compliance with requirements of the statute, OCCC's internal policies and procedures refer to the Act; and, the State Travel Management Program (STMP) and Textravel, which were established by the CPA to implement the Act. In addition, the CPA conducts Fiscal Management audits; such as, Post-Payment audits, of OCCC's expenditures, that include travel expenditures.

## OFFICE OF CONSUMER CREDIT COMMISSIONER

### Internal Audit Annual Report

Fiscal Year 2021

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OCCC requires preapproval for all out-of-state travel and in-state travel other than examinations. Travelers are required to perform a rental versus personal vehicle cost analysis using a web tool developed by the CPA prior to the travel, and use the most cost-efficient driving method unless justification is documented for exceptional cases. In addition, state-contracted travel service vendors must be utilized for rental cars, flights, and hotels, unless justification is documented for the use of other vendors.

After travel, the traveler will complete a travel voucher to report travel expenditures and request reimbursement. The traveler must report a detailed travel itinerary and itemized expenditures, not to exceed the per diem rates set by the U.S. General Services Administration (GSA), in the travel voucher, along with supporting documentation; including, cost analysis and receipts. To minimize clerical error, the travel voucher has a built-in formula that automatically computes the total for each expenditure category from itemized expenditures.

Upon completion, the travel voucher must be first approved by the traveler's supervisor, whose approval denotes that the expenditures were authorized and necessary to conduct official state business. The traveler then submits the approved travel voucher and supporting documentation to the Accounting department. The Travel Administrative Assistant first reviews the travel voucher and supporting documentation to ensure each itemized expenditure is supported and has not been previously paid; and, that the payee information is accurate. The Travel Administrative Assistant then enters the reviewed expenditures into the MIP system, OCCC's internal accounting system, to generate a batch of up to 10 travel vouchers for reimbursement payment processing. The Travel Coordinator, who is an accountant, then reviews the batch for accuracy and proper account coding, and ensures there are no duplicates. Once the entry in the MIP system is interfaced to USAS, the Director of Licensing and Finance performs a final review, which includes verification of reported mileage and ensuring inclusion of required cost analysis for cost efficiencies, before releasing the batch for payment processing. It is the Accounting department's policy to process travel vouchers within 10 business days of their receipt.

If, at any point during the reviews, it is determined that the reimbursement requires revision, the travel voucher is either returned to the traveler for correction, or corrected by the reviewer if the correction is less than \$10 and the traveler authorizes the correction in writing.

In accordance with the Finance Commission's policies and procedures, all 3 finance agencies track and report to the Finance Commission, on a quarterly basis, travel expenditures classified into the following 4 categories for in-state and out-of-state travel in a uniform manner:

- Regulatory Supervision
- Development and Training
- Other Regulatory Activities
- Non-Employee

The above reporting addresses the Sunset Advisory Commission's Recommendation 2.5 relating to standardized tracking and reporting of travel expenditures, made during the 2018-2019 Review Cycle. OCCC tracks these 4 categories by utilizing the Agency Object Code (AOBJ) and the Comptroller's Cost Object Code (COBJ) in the MIP system.

## **OFFICE OF CONSUMER CREDIT COMMISSIONER**

Internal Audit Annual Report

Fiscal Year 2021

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OCCC participates in the state charge card program that allows employees to use a state-contracted charge card for travel expenses, although use of the charge card is not mandatory. The Director of Licensing and Finance is the administrator of the program and the only person at OCCC who can manage and view OCCC employees' state charge card accounts from the card issuer's online portal. Upon a supervisor's request, the Director of Licensing and Finance initiates an online application for the respective employee to be issued a new card. The card issuer conducts a routine credit check of the employee, and if approved, issues a charge card in the employee's name and sends it directly to the employee. Each card holder is responsible for making full payment each billing cycle. Certain transactions; such as, cash advances, are prohibited for use and therefore blocked by the card issuer. Transactions may also be declined for other reasons; such as, when cards are suspected to be lost or stolen. The Director of Licensing and Finance receives alerts from the card issuer when transactions are blocked or declined. The Director of Licensing and Finance also logs into the online portal on a periodic basis to review card activity and payment status to detect unusual or unauthorized transactions and late payment.

### **Audit Objective, Scope, and Methodology**

#### **Objective**

The objective of our audit was to assess the internal control structure, as implemented by the Fiscal Division, over Fixed Assets and Travel (Area), and its established policies and procedures, as applicable to the Area, for the purpose of determining compliance with applicable laws and regulations provided in the Texas Government Code.

#### **Scope**

The scope of the audit was to ensure accurate reporting of fixed assets in the SPA System; and, that travel transactions were administered in accordance with applicable statutes, rules, and agency policies and procedures, for the 7-month period from September 1, 2020 to March 31, 2021 (audit period).

#### **Methodology**

The audit methodology included a review of applicable laws and regulations, OCCC's established policies and procedures, and other internal and external documentation; and, interviews and correspondence with selected OCCC employees.

We obtained and/or reviewed the following internal and external documentation:

- a. Texas Government Code (GC) Chapter 441, Subchapter L. *Preservation and Management of State Records and Other Historical Resources*; and, GC Chapter 660, *the Travel Regulations Act*.
- b. Sunset Advisory Commission *Staff Report with Final Results*, 2018-2019, 86<sup>th</sup> Legislature.
- c. Texas Comptroller of Public Accounts (CPA), Financial Policies & Procedures (FPP) N.005, *SPA Process User's Guide*; and, FPP G.005, *Textravel*.
- d. Finance Commission Policies and Procedures – Finance Agency Budgeting and Reporting.
- e. OCCC Policies and Procedures Manual, #210: Accounting for State Property and #400: Travel Guidelines & Regulations; and, Accounting department travel procedures.
- f. Completed CPA forms related to property management:
  - Form 73-286, *Notice of Agency Head and Designation of Property Manager* dated September 5, 2020.
  - Form 73-283, *Certification of Physical Inventory Conducted by Agency* dated September 9, 2020.
  - Form 73-284, *Certification of Request for Agency Reporting Status* dated February 9, 2021.
- g. SPA property reports as of August 31, 2020 and March 31, 2021; and, OCCC's fiscal year 2020 annual financial report, Note 2, *Capital Assets*.
- h. SPA Security Report generated on April 5, 2021.
- i. Sample forms, to include *Inventory Control Form* and in-state and out-of-state travel vouchers.
- j. OCCC's fiscal year 2021, second quarter travel expenditures, as reported to the Audit Committee on April 16, 2021, and supporting documentation generated from the MIP system.
- k. Travel voucher log for fiscal year 2021.

## OFFICE OF CONSUMER CREDIT COMMISSIONER

### Internal Audit Annual Report

Fiscal Year 2021

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We performed various procedures to achieve the objective of our audit, to include the following:

1. Reviewed and obtained an understanding of state laws and regulations, and other requirements established by the CPA, the Sunset Advisory Commission, and the Finance Commission, as applicable to the Area.
2. Obtained and reviewed OCCC's written policies and procedures; and, conducted interviews, to obtain an understanding of controls, processes and current practices in place over the Area, and to evaluate whether such controls adequately ensure compliance with applicable requirements identified in procedure 1 above.
3. Reviewed OCCC's completed CPA forms to ensure compliance with OCCC's policies and procedures, such as the Property Manager designation and performance of annual physical inventory.
4. Assessed the adequacy of access rights assigned to users of the SPA system.
5. For property added during fiscal year 2020, reviewed invoices to ensure the assets met the controlled asset threshold/criteria, and was properly reported in the SPA system.
6. Reconciled capitalized assets as of August 31, 2020 in the SPA system to the annual physical inventory report, and fiscal year 2020 annual financial report, Note 2.
7. Reviewed the processes and internal controls in place for issuance and monitoring of state-issued charge cards.
8. Selected a sample of 25 travel vouchers for travel expenditures incurred during the audit period, and tested for the following attributes:
  - a. Expenditures were supported by receipts and mileage.
  - b. Rental versus personal vehicle cost analysis was performed and followed, or justification for exceptions was documented.
  - c. Expenditures were allowable, appropriately categorized, and recorded with an accurate accounting code in the MIP system.
  - d. Expenditures were within GSA per diem rates applicable to travel date and location, and maximum 75% of daily meal per diem for first and last travel days.
  - e. Incidentals claimed in travel voucher did not exceed \$20 in accordance with OCCC policy.
  - f. Travel voucher was authorized by the supervisor and approved by the Travel Administrative Assistant and the Travel Coordinator.
  - g. Traveler was reimbursed no later than the 45th day after a properly completed reimbursement request was submitted, and, the Accounting department processed the travel voucher within 10 working days.
9. Traced travel expenditures for the first 2 quarters of fiscal year 2021 ended February 28, 2021, as presented to the Audit Committee on April 16, 2021, to supporting documentation generated from the MIP system.

**OFFICE OF CONSUMER CREDIT COMMISSIONER**

Internal Audit Annual Report

Fiscal Year 2021

**VI. Observations/Findings and Recommendations****SUMMARY and RELATED RATING of OBSERVATIONS/FINDINGS and RECOMMENDATIONS**

As OCCC's internal auditors, we used our professional judgment in rating the audit findings identified in this report. The rating system used was developed by the Texas State Auditor's Office and is based on the degree of risk or effect of the findings in relation to the audit objective(s). The table below presents a summary of the findings in this report and the related rating.

<b>Summary of Observations/Findings &amp; Recommendations and Related Ratings</b>		
<b>Finding No.</b>	<b>Title</b>	<b>Rating</b>
1	Travel Policies and Procedures	Low
<b>Observation No.</b>	<b>Observation</b>	
1	Rental versus Personal Vehicle Cost Analysis	-
<p><u>Description of Rating</u></p> <p>A finding is rated <i>Priority</i> if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>High</i> if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>Medium</i> if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.</p> <p>A finding is rated <i>Low</i> if the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.</p>		

**OFFICE OF CONSUMER CREDIT COMMISSIONER**

Internal Audit Annual Report

Fiscal Year 2021

**OBSERVATIONS/FINDINGS and RECOMMENDATIONS**

<b>Report No.</b>	<b>Report Date</b>	<b>Name of Report</b>	<b>Observations/Findings and Recommendations</b>	<b>Fiscal Impact/ Other Impact</b>
2	5/20/2021	Fiscal Division	<p><b>1. Travel Policies and Procedures (P&amp;P)</b></p> <p>OCCC has written travel P&amp;P; however, some are inconsistent with current practice, as denoted below:</p> <p><u>Policy #400, Travel Guidelines and Regulations</u></p> <ul style="list-style-type: none"><li>a. Corporate Charge Card: The policy states it is mandatory for employees to use an issued card. Current practice does not mandate use of an issued card.</li><li>b. Rental - Personal Vehicle Comparison: The policy requires comparison only when exceeding the mileage thresholds (250 miles for one day or 350 miles for two or more days). Current practice requires comparison for all travel, regardless of distance.</li><li>c. Central Billing Account (CBA): The policy requires traveler to submit to the Accounting department, a CBA Authorization Request Form and travel voucher that includes CBA activity, when rental car expenditures are charged directly to the CBA. Current practice does not require such documentation, and instead, the Accounting department relies on monthly statements received from rental car companies.</li></ul> <p><u>Travel Voucher Processing Procedures</u></p> <ul style="list-style-type: none"><li>a. Procedure states that an Accountant interfaces the MIP entry to USAS. In current practice, this function is performed by the HR department.</li></ul> <p><b>Recommendation</b></p> <p>We recommend that OCCC update its travel policies and procedures to be consistent with current requirements and practices.</p> <p><b>Management's Response</b></p> <p>While Covid-19 has presented unique circumstances and challenges, especially within travel processes, the OCCC will update travel policies and procedures by August 31, 2021.</p>	To ensure travel P&P are consistently followed.

# OFFICE OF CONSUMER CREDIT COMMISSIONER

## Internal Audit Annual Report

Fiscal Year 2021

Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Fiscal Impact/ Other Impact
2	5/20/2021	Fiscal Division	<p style="text-align: center;"><b><u>Observation</u></b></p> <p><b>1. Rental Versus Personal Vehicle Cost Analysis</b></p> <p>OCCC's policies and procedures require a traveler to determine the most cost-effective way to travel by completing the CPA's rental versus personal vehicle cost analysis, and attach the result to the travel voucher as supporting documentation. Justification must be documented if a traveler uses a travel method that is inconsistent with the most cost-effective manner.</p> <p>During the audit period, due to concerns over COVID-19, many travelers opted to use their personal vehicle versus vehicle rental, even when renting a vehicle was more cost-effective. However, in the absence of standard guidance, there were inconsistencies in the justification among travelers. Our testing of 25 travel vouchers disclosed the following instances where justification and mileage were reported differently under similar travel circumstances:</p> <ul style="list-style-type: none"> <li>• 2 travelers added implicit costs (transportation to rental car office; and, one of the 2 travelers included additional compensable time) to vehicle rental in the cost analysis, that resulted in the use of a personal vehicle being more cost-effective and therefore claimed full mileage for the travel.</li> <li>• 5 travelers cited health concerns and claimed reduced, versus full, mileage so that the reimbursement for use of a personal vehicle would be equal to the cost of a rental car. The reduction in claimed mileage varied by traveler since in some instances, travelers added implicit costs to the vehicle rental cost.</li> <li>• 1 traveler cited health concerns and claimed full mileage without adjusting for implicit costs.</li> </ul> <p><b>Recommendation</b></p> <p>We recommend that OCCC establish agency-wide guidance for justification of alternative travel methods, including those due to health concerns, to ensure employees perform this function in a uniform manner; to optimize a balance between conservation of state funds and employee impact; and, to promote a sense of fairness among travelers.</p> <p><b>Management's Response</b></p> <p>The OCCC will establish guidance for justification of alternative travel methods by August 31, 2021.</p>	To reduce the administrative burden to travelers when completing travel expenditure reports.



# OFFICE OF CONSUMER CREDIT COMMISSIONER

## Internal Audit Annual Report

Fiscal Year 2021

Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Status (Fully Implemented, Substantially Implemented, Incomplete/ Ongoing, or Not Implemented) with explanation if not yet fully implemented
2	5/20/2021	2021 Follow-Up	<p><b><u>Follow-Up of Prior Year Internal Audits</u></b></p> <p>Following is the status of the recommendations made in prior years that had not been fully implemented.</p> <p>Records Management (Report date 6/19/2020)</p> <p>1. Records Disposition</p> <p>OCCC should assess, and revise if appropriate, its current RDL review procedures to ensure any errors in the completed RDL are detected timely to ensure state records are not improperly destroyed.</p> <p><u>Observation</u></p> <p>1. Imaged Record Verification</p> <p>The Licensing department should evaluate and revise, as considered necessary, the current imaging and verification logging procedures; and, ensure Licensing staff consistently follow the established procedures.</p> <p><i>Explanation for FY21 Status</i></p> <p>Imaging and verifying have not been performed in fiscal year 2021 due to COVID-19.</p> <p>IT Change Management Program (Report date 7/5/2019)</p> <p>1. IT Change Management Framework</p> <p>#1A. OCCC should develop a process to ensure that action plans are created for all builds and changes.</p> <p>#1C. Document the information technology change date in the change request form.</p> <p>#1D. Document the information technology change implementation dates with the change test results and filed for future operation efficiency test of IT department.</p>	<p>Fully Implemented</p> <p>Incomplete/ Ongoing</p> <p>Fully Implemented</p> <p>Fully Implemented</p> <p>Fully Implemented</p>

## **OFFICE OF CONSUMER CREDIT COMMISSIONER**

Internal Audit Annual Report

Fiscal Year 2021

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### **VII. External Audit Services Procured in Fiscal Year 2020**

OCCC procured the internal audit services documented in the approved Internal Audit Plan for fiscal year 2021. No other external audit services were performed.

### **VIII. Reporting Suspected Fraud and Abuse**

OCCC has provided information on their website home page on how to report suspected fraud, waste, and abuse to the State Auditor's Office (SAO) by posting a link to the SAO's fraud hotline. OCCC has also developed a Fraud Prevention Policy that provides information on how to report suspected fraud, waste, and abuse to the SAO.

### **IX. Proposed Internal Audit Plan for Fiscal Year 2022**

The risk assessment performed during the 2021 fiscal year was used to identify the following *proposed* area that is recommended for internal audit and other tasks to be performed for fiscal year 2022. The Internal Audit Plan for Fiscal Year 2022 will be developed and presented to the Audit Committee and Finance Commission, for acceptance and approval, at a meeting to be determined at a later date.

- Human Resources and Payroll
- Follow-up of Prior Year Internal Audits
- Other Tasks Assigned by the Finance Commission

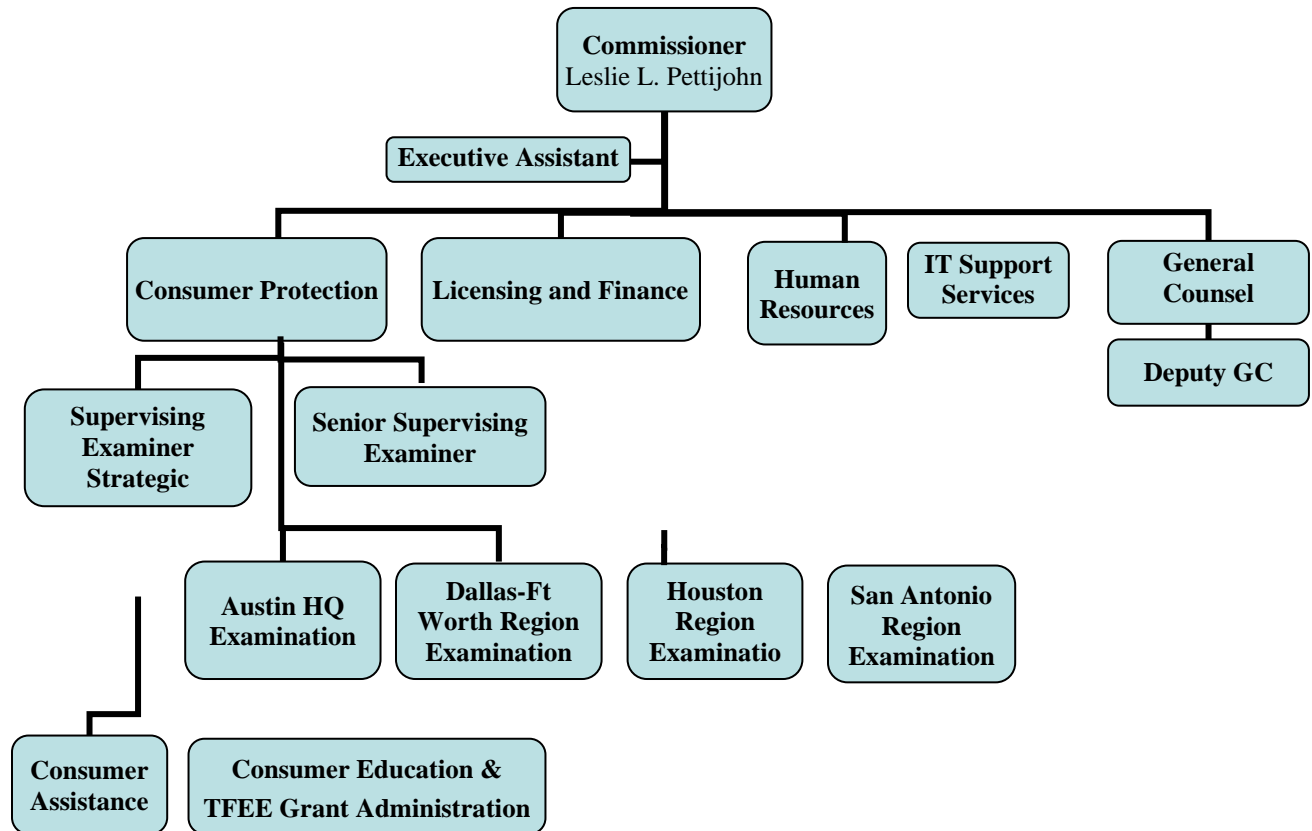
# OFFICE OF CONSUMER CREDIT COMMISSIONER

Internal Audit Annual Report

Fiscal Year 2021

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## X. Organizational Chart



ATTACHMENT

**OFFICE OF CONSUMER CREDIT COMMISSIONER**  
**History of Areas Audited**  
**For Fiscal Year 2021**

POTENTIAL AUDIT TOPIC		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
1	Business Licensing	A					F*	B*	D/F*			
2	Business Registration							A	D			
3	Complaint Intake and Investigation		A						D			
4	Credit Access Business Examinations			A					D			
5	Fiscal Division (Includes Fixed Assets & Travel)			C*				B	C*/D*		C1*	A*/C1*
6	Legal and Enforcement							B*	D			
7	Management Information Systems [(MIS) Includes Disaster Recovery Plan]	A	E*	E*	E	E*	E*	B*/E	D*/E*	A1*/E		E/E*
8	Motor Vehicle Sales Finance Examinations						A		D			
9	Pawn Examinations								D			
10	Payroll and Human Resources			C*/G*					C*	G*		
11	Procurement/Contract Management/HUB			C*				B	C*/D*			
12	Professional Licensing (Pawnshop Employees & RMLO)				A		F*	B*	D/F*			F*
13	Property Tax Lender Examinations								A/D			
14	Records Management										A	
15	Regulated Lenders Examinations								D			
16	Revenue Accounting Process							B	D			
17	TFEE Fund Grant Administration					A		A*	D			
<i>Required Periodic Audit</i>												
18	TFEE Fund Investment Portfolio Administration							A	D	A1		A

**Note:** Performance Measures is included in the scope of the applicable audit area(s).

**Legend (audits/reviews with asterisk are considered limited scope for the audit area)**

- A Internal audit performed by Garza/Gonzalez & Associates, CPAs.
- A1 Internal audit performed by McConnell & Jones LLP.
- B Audit performed by the State Auditor's Office.
- C Post-Payment audit performed by the Comptroller of Public Accounts (CPA).
- C1 Other audit performed by the CPA.
- D Sunset Review performed by the Sunset Advisory Commission.
- E IT assessment performed by the Department of Information Resources (DIR) or a third-party vendor procured through the DIR.
- F Review performed by the Department of Public Safety.
- G Review performed by the Texas Workforce Commission.

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**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**  
Austin, Texas

**ANNUAL INTERNAL AUDIT REPORT**

Fiscal Year 2021



Garza/Gonzalez & Associates  
CERTIFIED PUBLIC ACCOUNTANTS

DEPARTMENT OF SAVINGS AND MORTGAGE LENDING  
Austin, Texas

Annual Internal Audit Report  
Fiscal Year 2021

TABLE OF CONTENTS

	<u>Page</u>
Internal Auditor's Report.....	1
Introduction.....	2-3
Internal Audit Objectives.....	4
I. Compliance with Texas Government Code 2102: Required Posting of Internal Audit Information.....	5
II. Consulting and Nonaudit Services Completed .....	5
III. External Quality Assurance Review .....	5
IV. Internal Audit Plan for Fiscal Year 2021 .....	5-7
V. Executive Summary Procurement/Contract Management/HUB Background.....	7-10
Audit Objective, Scope, and Methodology .....	11-12
VI. Observations/Findings and Recommendations Summary and Related Rating of Observations/Findings and Recommendations .....	13
Observations/Findings and Recommendations.....	14-15
VII. External Audit Services Procured in Fiscal Year 2021.....	16
VIII. Reporting Suspected Fraud and Abuse.....	16
IX. Proposed Internal Audit Plan for Fiscal Year 2022 .....	16
X. Organizational Chart.....	17
ATTACHMENT Attachment – History of Areas Audited .....	18



# Garza/Gonzalez & Associates

CERTIFIED PUBLIC ACCOUNTANTS

Finance Commission Members and  
Audit Committee Members  
Department of Savings and Mortgage Lending  
Austin, Texas

We performed tests of management's assertion about the effectiveness and efficiency of the Department of Savings and Mortgage Lending's (SML) internal control structure over the Procurement/Contract Management/Historically Underutilized Business (HUB) Area (the Area), its compliance with the state requirements set by the Texas Comptroller of Public Accounts; and, SML's established policies and procedures, as applicable to the Area, for the 7 months ended March 31, 2021.

The results of our tests disclosed that SML's internal control structure over the Area and its established policies and procedures, were adequate and no instances of noncompliance were noted. The report that accompanies this letter provides a summary of the Area; summarizes the audit objective, scope, and methodology; and, the procedures performed to achieve the objective of our audit.

We also performed a follow-up of the findings and recommendations that were not fully implemented as of fiscal year ended August 31, 2020, and presented in the prior year annual internal audit report. This report reflects the implementation status of those matters; and, includes all information required for compliance with the State of Texas Internal Audit Annual Report requirements.

We have discussed the implementation status from the follow-up performed with various SML personnel, and will be pleased to discuss them with you in further detail.



July 12, 2021

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2021

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## INTRODUCTION

The Department of Savings and Mortgage Lending (SML) was originally established as the Savings and Loan Department, a regulatory body, to regulate the state's thrift industry. The 58th and 73rd Legislatures enacted the Texas Savings and Loan Act; and, the Texas Savings Bank Act, respectively, for the chartering, regulation, examination and supervision of state-chartered savings banks and savings and loan associations. With the enactment of the Mortgage Broker License Act by the 76th Legislature, in the late 1990s, SML was also tasked with regulating the state's mortgage industry. SML's regulatory authority over the state's mortgage industry has expanded with a series of additional acts that were enacted by subsequent Legislatures.

The Finance Commission appoints the SML Commissioner, who serves as the chief executive officer of the agency; and, executes the Finance Commission's orders and direction.

SML was granted Self-Directed, Semi-Independent (SDSI) status in the 81st Legislative Session. As an SDSI agency, SML is not required to have its budget approved by the Legislature; instead, the Finance Commission is responsible for setting SML's spending authority or limits. SML's entire operating funds are generated from fees assessed to regulated entities and are used to fund both, direct and indirect costs. General revenue funds are not used to support SML's operations.

SML's mission is "to supervise and regulate the residential mortgage lending and state savings industries in order to protect Texans, provide a healthy residential mortgage lending environment, and maintain safe and sound savings banks and savings associations."

SML's primary goals and activities are as follows:

1. Thrift Safety and Soundness
  - Perform full and limited scope examinations and participate with federal regulators in joint examinations.
  - Monitor and enforce the safe and sound operation and compliance with applicable laws and regulations.
2. Mortgage Regulation
  - Process mortgage license applications and registrations for entities and individuals and enforce licensing standards of conduct.
  - Perform examination of mortgage licensees and registrants and enforce regulatory requirements.
3. Consumer Responsiveness
  - Provide a means for consumers to report complaints regarding thrift institutions; and, mortgage entities and individuals.
  - Review and investigate complaints and inquiries as appropriate; and, take appropriate supervisory action when warranted.

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**  
Annual Internal Audit Report  
Fiscal Year 2021

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**2021 Internal Audit Plan**

Following is the internal audit and other functions performed, as identified in SML's *Internal Audit Plan for Fiscal Year 2021*, dated November 18, 2020, and approved by the Audit Committee and Finance Commission on December 11, 2020:

- Completion of the Fiscal Year 2021 Risk Assessment & Preparation of the 2021 Internal Audit Plan
- Procurement/Contract Management/HUB Area
- Follow-up of Prior Year Internal Audit
- Preparation of the 2021 Internal Audit Annual Report
- Other Tasks

This report contains the results of our audit of the Procurement/Contract Management/HUB Area; reflects the results of the follow-up procedures performed in the current year of findings that were presented in the prior year internal audit report; and, meets the State of Texas Internal Audit Annual Report requirements.

## INTERNAL AUDIT OBJECTIVES

In accordance with the **International Standards for the Professional Practice of Internal Auditing**, the audit scope encompassed the examination and evaluation of the adequacy and effectiveness of SML's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope included the following objectives:

- **Reliability and Integrity of Financial and Operational Information** – Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Policies, Procedures, Laws, Regulations, and Contracts** – Review the systems established to ensure compliance with those policies, procedures, laws, regulations, and contracts which could have a significant impact on operations and reports, and determine whether the organization is in compliance.
- **Safeguarding of Assets** – Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Effectiveness and Efficiency of Operations and Programs** – Appraise the effectiveness and efficiency with which resources are employed.
- **Achievement of the Organization's Strategic Objectives** – Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2021

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#### I. Compliance with Texas Government Code 2102: Required Posting of Internal Audit Information

To comply with the provisions of Texas Government Code, 2102.015 and the State Auditor's Office guidelines, within 30 days after approval by the Finance Commission, SML will post the following information on its website:

- An approved fiscal year 2022 audit plan, as provided by Texas Government Code, Section 2102.008.
- A fiscal year 2021 internal audit annual report, as required by Texas Government Code, Section 2102.009.

The annual internal audit report includes any weaknesses, deficiencies, wrongdoings, or other concerns raised by internal audits and other functions performed by the internal auditor as well as the summary of the action taken by SML to address such concerns.

#### II. Consulting and Nonaudit Services Completed

The internal auditor did not perform any consulting services, as defined in the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and/or any non-audit services, as defined in the *Government Auditing Standards, 2018 Revision*, Sections 3.64-3.106.

#### III. External Quality Assurance Review

The internal audit department's most recent *System Review Report*, dated November 16, 2018, indicates that its system of quality control has been suitably designed and conforms to applicable professional standards in all material respects.

#### IV. Internal Audit Plan for Fiscal Year 2021

The approved Internal Audit Plan (Plan) included one audit to be performed during the 2021 fiscal year. The Plan also included a follow-up of the prior year internal audit recommendations that were not fully implemented as of fiscal year ended August 31, 2020; other tasks as may have been assigned by the Finance Commission; and, preparation of the Annual Internal Audit Report for fiscal year 2021.

##### Risk Assessment

Utilizing information obtained through the completed questionnaires received and background information reviewed, 12 areas were identified as potential audit topics. A risk analysis utilizing 8 risk factors was completed for each individual audit topics and then compiled to develop an overall risk assessment.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2021

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Following are the results of the risk assessment performed for the 12 potential audit topics identified:

HIGH RISK	MODERATE RISK	LOW RISK
Management Information Systems [(MIS) Includes Disaster Recovery Plan]	Payroll and Human Resources  Procurement/ Contract Management/ HUB  Revenue Accounting Process  Thrift Examinations  Thrift Supervision and Compliance  Legal and Enforcement  Mortgage Licensing and Registration	Financial Reporting (Includes Fixed Assets & Travel)  Mortgage Examinations  Consumer Protection  Records Management

In the prior 3 years, the following internal audits and other functions were performed:

Fiscal Year 2020:

- Risk Assessment & Preparation of the Internal Audit Plan
- Records Management
- Follow-Up of the Prior Year Internal Audits
- Preparation of the Internal Audit Annual Report

Fiscal Year 2019<sup>1</sup>:

- Risk Assessment & Preparation of the Internal Audit Plan
- Information Technology Change Management
- Follow-Up of the Prior Year Internal Audits
- Preparation of the Internal Audit Annual Report

Fiscal Year 2018:

- Risk Assessment & Preparation of the Internal Audit Plan
- Thrift Supervision and Compliance
- Follow-Up of the Prior Year Internal Audits
- Preparation of the Internal Audit Annual Report

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<sup>1</sup> Performed by McConnell & Jones LLP

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2021

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The internal audit and other tasks performed for fiscal year 2021 were as follows:

Report No.	Audits/Report Titles	Report Date
1.	Procurement/Contract Management/HUB Area <i>Objective:</i> To assess the effectiveness and efficiency of the internal controls, policies, procedures, and processes in place for the Procurement/Contract Management/HUB Area; and, to determine compliance with applicable state requirements.	7/12/2021
1.	Annual Internal Audit Report – Follow-Up of findings and recommendations that were presented in the Prior Year Internal Audit Report	7/12/2021
-	Other Tasks Assigned by the Finance Commission or the Audit Committee	None

## V. Executive Summary

### Procurement/Contract Management/HUB Area

#### Background

The Procurement/Contract Management/HUB Area (the Area) is responsible for processing agency purchases in accordance with applicable state purchasing laws. The Area is also responsible for complying with the solicitation, contract posting, and reporting requirements, as established by state requirements. Applicable state purchasing statutes are located in the Texas Government Code (TGC), Title 10, Subtitle D. *State Purchasing and General Services Act*; and, Subtitle F. *State and Local Contracts and Fund Management*; while, corresponding rules are in Title 34 of the Texas Administrative Code (TAC) Chapter 20 *Statewide Procurement and Support Services*. The Texas Comptroller of Public Accounts (the Comptroller) Statewide Procurement Division (SPD) has developed the *Texas Procurement and Contract Management Guide* (the Guide) to assist state agencies in complying with these state requirements.

The Area is supervised by the Director of Operations, who reports directly to the Commissioner, and consists of one Purchaser. The Director of Operations is SML's certified contract manager. State agency purchasing employees must adhere to the same ethical standards required of the Comptroller's employees; such as, prohibition of financial interest in, and gift/compensation from, contracting entities.

During the audit period, September 1, 2020 to March 31, 2021, the Area processed 91 purchases and contracts totaling \$744,654.

#### Purchasing Process

SML requires all purchase requests to be initiated through the purchasing requisition process in the Web Application for Streamlined Processing (WASP), an internally developed application for electronic routing and approval. Requisitions are routed to either the appropriate Division Director or Commissioner, and then to Budget for review and approval in WASP. Based upon the type and amount of the purchase, the Purchaser determines the proper procurement method and Purchase Category Code (PCC). For commodity purchases, state agencies must first consider purchasing from the following:

- Set-aside programs (the Texas Correctional Industries (TCI) Program and the Purchasing from People with Disabilities Program commonly referred to as the State Use Program)
- Department of Information Resources (DIR) contracts
- SPD term contracts (Texas SmartBuy)

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2021

---

Purchases from the set-aside programs and term contracts do not require state agencies to go through a vendor evaluation process.

If suitable vendors are not found in the preferred methods above, the Purchaser follows the SPD's *Delegated Purchase Method*, up to the delegation limits of \$50,000 for goods and \$100,000 for services. A delegation request must be individually approved by the SPD for purchases that exceed the delegation limit. Under the Delegated Purchase Method, the solicitation requirements below apply, unless explicitly exempted by statute. In such cases, the Purchaser must document the underlying legal citation.

Purchase/Contract Value	Solicitation Requirement
Up to \$5,000	Competitive process not required.
\$5,000.01 - \$25,000	Informal competitive solicitation required.
Over \$25,000	Formal competitive solicitation required.

Agencies must utilize the Centralized Master Bidders List (CMBL) and Historically Underutilized Businesses (HUB) Directory Search to identify vendors for solicitation. Different purchasing rules apply to certain purchases other than commodity, such as IT, professional and consulting services. The Purchaser maintains all procurement supporting documentation in the respective procurement file.

#### *Supplies & Inventory*

In accordance with the Finance Commission Directive, in fiscal year 2020, SML entered into a shared service agreement with the Department of Banking (DOB) and the Office of Consumer Credit Commission (OCCC) for the purchase of office supplies and inventory. As part of the agreement, DOB purchases office supplies and inventory, as needed, for all three agencies and maintains the items in a supply room. As supplies are needed, SML's Purchaser will make a request to DOB, via email; and, will either obtain the supplies from the supply room; or, DOB will deliver the items to the Purchaser. DOB uses paper log sheets to track the items the agencies have requested and received; and, invoices the agencies on a quarterly basis. SML may perform their own purchase of supplies when such items are not maintained by DOB.

#### *Purchasing Card*

According to 34 TAC §5.57, *Use of Payment Cards by State Agencies*, state agencies must adopt reasonable procedures governing the issuance and security of payment cards and the use of those cards by the agency's officers and employees. SML has developed and implemented the *Corporate Procedures Procurement Charge Card Program* (Program), to comply with the state requirements. SML has one purchasing card with a minimal credit limit, that is generally used for subscription fees for various products/services, training, licenses, and other online services. In addition to the Director of Operations, who is the Administrator for the Program, the System Analyst and Purchaser are also authorized users. As the Administrator of the Program, the Director of Operations is required to pre-approve all purchases made using the purchasing card, and has online access to review and research purchasing card transactions. In accordance with SML's internal procedures, the System Analyst is limited to purchases of \$500 or less per transaction.

Prior to purchases of \$500 or more using the purchasing card, SML performs a warrant hold/payment hold check, which is a type of *vendor compliance verification check*. Receipts are required to be submitted for all purchases using the purchase card; and, are used by the Accounting Department to reconcile to the monthly purchasing card statement.



## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2021

---

#### *Vendor Compliance Verification*

Prior to finalizing a purchase, with the exception of those made using a purchasing card, state agencies must perform the following vendor compliance verification checks:

- SPD Debarment Check
- System for Award Management (SAM) Exclusion Check
- Iran, Sudan, & Foreign Terrorist Organization Check
- Boycott Israel Check
- Warrant/Payment Hold Check

#### *Contracts Posting and Reporting*

To ensure transparency, state agencies must post/report the following information for certain contracts during solicitation and post-award, depending on the contract type and dollar value.

- **Texas Register** – solicitation of consulting services contracts valued more than \$15,000.
- **Electronic State Business Daily (ESBD)** – solicitation and award of all contract types more than \$25,000.
- **LBB Reporting** – contract awards of more than \$14,000 for construction, professional services, and consulting services; and, more than \$50,000 for all other contract types.
- **Agency Website Postings** – All contracts not reported to the LBB.

### **Contract Management**

The Risk Assessment Matrix (the matrix) is a tool used by SML to analyze contracts for areas of risk (the potential for loss, harm, or damage that may occur due to errors or problems associated with contractors' performance) which allows staff to identify specific areas that may need accelerated or heightened monitoring. The matrix is completed for each new solicitation and is assessed throughout the contract period. The risk factors in the matrix include factors; such as, dollar amount of the contract; stability and experience of contractor; and, past programmatic performance. Following are the ranges for the overall risk level scores:

- Low risk: 0 – 48;
- Medium risk: 49 – 112; and,
- High risk: 113 – 160.

SML defines contract management as the entire contracting process, which involves planning, developing, administering, and monitoring contracts through closeout of the contract. Contract management activities include measuring completed work, computing and approving payments, monitoring contract performance, and communicating with the contractor.

After any contract in excess of \$25,000 is completed or otherwise terminated, the Director of Operations is required to review the vendor performance by filing a report through the Comptroller's Vendor Performance Tracking System.

### **HUB Compliance**

TGC Chapter 2161 outlines the statewide HUB compliance requirements and grants responsibility to the Comptroller for adopting rules to administer the statewide HUB Program for businesses owned by minority, women, and certain service-connected disabled veterans. State agencies must track HUB purchases, and plan and make good-faith efforts in meeting the statewide HUB purchasing goals specified in 34 TAC §20.284. The table below shows SML's fiscal year 2020 HUB purchases, which is the most recent data available, as reported by the Comptroller:

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

## Annual Internal Audit Report

Fiscal Year 2021

---

Procurement category	Statewide Goal	SML FY20 <sup>(1)</sup>		
		Total \$	HUB \$	HUB %
Heavy Construction	11.2%	\$ -	\$ -	0%
Building Construction	21.1%	\$ -	\$ -	0%
Special Trade	32.9%	\$ -	\$ -	0%
Professional Services	23.7%	\$ 13,739	\$ 13,739	100.00%
Other Services	26.0%	\$ 147,076	\$ 57,303	38.96%
Commodity Purchases	21.1%	\$ 125,157	\$ 104,060	83.14%
Overall		\$ 285,973	\$ 175,103	61.23%

(1) Source: Fiscal year 2020 HUB Consolidated Annual Report for SML, obtained from Comptroller's website.

State agencies are required to semiannually report the following HUB Supplemental Data to the Comptroller:

- HUBs submitting bids / proposals
- Number of contracts awarded (HUBs and Non-HUBs)

In accordance with TGC Chapter 2161, Subchapter C. *Planning and Reporting Requirements*, SML has:

- included in the 2021-2025 Strategic Plan a written plan for increasing the agency's use of HUBs in purchasing; and,
- prepared the HUB Progress Report which was included in the fiscal year 2020 Annual Report of Nonfinancial Data.

### **Audit Objective, Scope, and Methodology**

#### **Objective**

The objective of our audit was to assess the effectiveness and efficiency of the internal controls, policies, procedures, and processes in place for the Procurement/Contract Management/HUB Area (the Area); and, to determine compliance with applicable state requirements.

#### **Scope**

The scope of this audit was to review selected purchases/contracts to test compliance with SML's established policies and procedures, processes, controls, and state requirements, for the 7-month period from September 1, 2020 through March 31, 2021 (audit period).

#### **Methodology**

The audit methodology included a review of laws and regulations, SML's established policies and procedures, and other internal and external documentation; and, interviews with selected SML staff.

We obtained and/or reviewed the following information:

- a. Texas Government Code, Title 10, Subtitle D. *State Purchasing and General Services* and Subtitle F. *State and Local Contracts and Fund Management*.
- b. Title 34 Texas Administrative Code Chapter 20. *Statewide Procurement and Support Services*.
- c. State of Texas Procurement and Contract Management Guide version 1.3 (the Guide) developed by the Texas Comptroller of Public Accounts (the Comptroller) Statewide Procurement Division (SPD).
- d. SML's Purchasing Procedures, Contracting Guide, and Shared Office Supplies Process Description.
- e. SML's fiscal year 2021 Agency Procurement Plan.
- f. The Area's organizational chart.
- g. Listing of purchases and contracts (collectively "purchases") made during the audit period.
- h. Procurement files of selected purchases during the audit period.
- i. Texas Purchasing from People with Disabilities Monthly Purchasing Summary and Reported Exceptions for SML obtained from Comptroller's website for the audit period.
- j. Conflict of Interest Forms signed by the Area's staff.
- k. Contract Manager certification.
- l. List of contracts and POs reported on SML's website.
- m. Fiscal Year 2020 Annual Consolidated HUB Report for SML obtained from the Comptroller's website.
- n. Fiscal Year 2020 Semi-Annual HUB Reports: Total Number of Competitive and Non-Competitive Contracts Awarded and Total Number of HUB Bids/Proposals Received.
- o. SML's Strategic Plan fiscal year 2021-2025.
- p. SML's 2nd Quarter Supplies Invoice from DOB.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2021

---

We performed various procedures to achieve the objective of our audit; to include, the following:

1. Obtained and reviewed SML's written policies and procedures; applicable laws and regulations; and, conducted interviews to obtain an understanding of controls, processes and current practices in place over the Area.
2. Obtained and reviewed the applicable state requirements as established by the SPD.
3. Verified that Area staff maintain active certification status and have signed the Conflict of Interest form for fiscal year 2021.
4. Reviewed submission records of the fiscal year 2021 Agency Procurement Plan to verify timeliness.
5. Reviewed SML's Semi-Annual HUB Reports to ensure proper submission to the Comptroller.
6. Reviewed the SML contracts/POs reported to the LBB during the audit period to ensure all contracts/POs exceeding the required threshold were properly reported; and, ensured all other contracts/POs were reported on the agency website in accordance with Texas Government Code §2261.253.
7. Selected 20 purchases made during the audit period to test for the following attributes, as considered applicable, to assess compliance with state requirements; and, to determine whether SML's internal controls over purchasing are operating effectively:
  - a. The purchase was reasonable.
  - b. Appropriate procurement method was selected.
  - c. Proper PPC and NIGP codes were used.
  - d. The procurement file included all required documentation.
  - e. Preferred vendors were utilized when available, and the justification was documented for any exemptions.
  - f. All required vendor compliance verification checks were performed prior to the purchase.
  - g. Contract and purchase amendments are traceable and all versions are on file.
  - h. Contract was reported to the Legislative Budget Board or posted to SML's website.
  - i. Contract was posted to the Electronic State Business Daily (ESBD).
  - j. Proper approval was obtained.
  - k. Risk Assessment Matrix was completed.
  - l. Vendor performance report was properly completed for contracts in excess of \$25,000.
8. Selected 3 purchases made with a purchasing card to test for the following attributes, as considered applicable, to determine whether SML's internal controls over the use of purchasing cards are operating effectively:
  - a. Purchases are reasonable.
  - b. Purchases are properly supported by receipts.
  - c. Purchases made by System Analyst do not exceed \$500.
  - d. Sales taxes were not charged to card purchases.
  - e. All required vendor compliance verification checks were performed prior to the purchase.
  - f. Purchases approved by Director of Operations.
9. Reviewed SML's 2<sup>nd</sup> quarter invoice from DOB for supplies and agreed the invoice total to the monthly log sheets.

## VI. Observations/Findings and Recommendations

### SUMMARY and RELATED RATING of OBSERVATIONS/FINDINGS and RECOMMENDATIONS

As SML's internal auditors, we used our professional judgment in rating the audit observations identified in this report. The rating system used was developed by the Texas State Auditor's Office and is based on the degree of risk or effect of the findings in relation to the audit objective(s). The table below presents a summary of the finding and observations in this report and the related rating.

Summary of Observations/Findings & Recommendations and Related Ratings		
Finding No.	Title	Rating
-	None	--
Observation No.	Title	Rating
-	None	--
	<p style="text-align: center;"><u>Description of Rating</u></p> <p>A finding is rated <i>Priority</i> if the issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>High</i> if the issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>Medium</i> if the issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.</p> <p>A finding is rated <i>Low</i> if the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.</p>	

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**  
Annual Internal Audit Report  
Fiscal Year 2021

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**OBSERVATIONS/FINDINGS and RECOMMENDATIONS**

<b>Report No.</b>	<b>Report Date</b>	<b>Name of Report</b>	<b>Observations/Findings and Recommendations</b>	<b>Fiscal Impact/Other Impact</b>
1	7/12/2021	Procurement/ Contract Management/ HUB	<b>None</b>	

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**  
Annual Internal Audit Report  
Fiscal Year 2021

Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Status (Fully Implemented, Substantially Implemented, Incomplete/ Ongoing, or Not Implemented) with explanation if not yet fully implemented
1	7/12/2021	2021 Follow-Up	<p><b><u>Follow-Up of Prior Year Internal Audits</u></b></p> <p><i>Following is the status of the recommendations made during previous fiscal years that had not been fully implemented.</i></p> <p><u>Records Management (Report date 3/31/2020)</u></p> <p><b>1. Records Stored at State Records Center (SRC)</b></p> <p>SML should assign a person other than the RMO to conduct a quality review of the AC dates reflected in TexLinx for all boxes stored at the SRC to ensure (1) the dates for inactive banks are correct; and, (2) active records do not reflect an expired disposition date.</p> <p><i>Explanation for FY21 Status</i>  Although SML did assign a person to conduct the quality review in TexLinx, the review was not necessary since SML is no longer storing records at the SRC. During the current year, SML recalled, inventoried, and destroyed all records that were being stored at the SRC, and have decided to transition to electronic state records.</p> <p><b>2. Records Retention Periods</b></p> <p>SML should contact TSLAC to request that the retention period for M-1 records (Master Files for Savings &amp; Loan Associations &amp; State Savings Bank Charters) be revised in TexLinx, to be in alignment with the SML's Records Management Procedures, which will allow the RMO to rely on and utilize the date when identifying records available for destruction.</p> <p><b>Management's Response</b>  In a discussion with SML's Records Analyst at TSLAC, it became apparent that the retention period of paper records for such records stored at TSLAC could not be changed. Therefore, since SML has a robust scanning process and procedures and most documentation is received or generated in digital format, it was decided to transition to electronic records. Any paper born records are scanned upon receipt, scanning is verified, and upon verification, disposed, at which point the electronic record becomes the primary record.</p>	<p><b>Fully Implemented</b></p> <p><b>Fully Implemented</b></p>

## **VII. External Audit Services Procured in Fiscal Year 2021**

SML procured the internal audit services documented in the approved Internal Audit Plan for fiscal year 2021. No other external audit services were performed.

## **VIII. Reporting Suspected Fraud and Abuse**

SML has provided information on their website homepage on how to report suspected fraud, waste, and abuse to the State Auditor's Office (SAO) by posting a link to the SAO's fraud hotline. SML has also developed a Fraud Prevention Policy that provides information on how to report suspected fraud, waste, and abuse to the SAO.

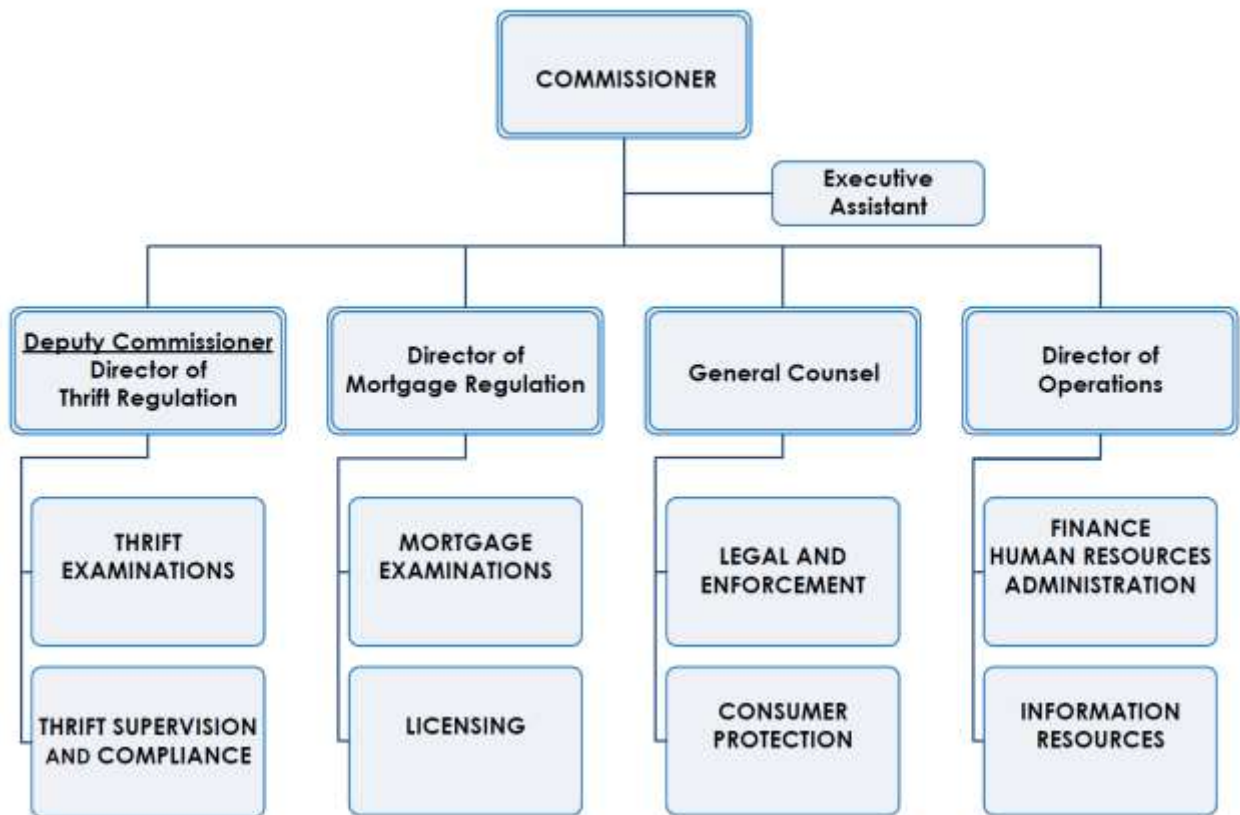
## **IX. Proposed Internal Audit Plan for Fiscal Year 2022**

The risk assessment performed during the 2021 fiscal year was used to identify the following *proposed* area that is recommended for internal audit and other tasks to be performed for fiscal year 2022. The Internal Audit Plan for Fiscal Year 2022 will be developed and presented to the Audit Committee and Finance Commission, for acceptance and approval, at a meeting to be determined at a later date.

- Payroll and Human Resources
- Follow-up of Prior Year Internal Audits
- Other Tasks Assigned by the Finance Commission



**X. Organizational Chart**



Source: SML

ATTACHMENT

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**  
**History of Areas Audited**  
**For Fiscal Year 2021**

POTENTIAL AUDIT TOPIC		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
1	Consumer Protection				A			B*	D			
2	Financial Reporting (Includes Fixed Assets & Travel)				E*			B	D*/E*			
3	Legal and Enforcement	A						B	D			
4	Management Information Systems [(MIS) Includes Disaster Recovery Plan]	C*	C*	C*	C*	C*	A/C*	B*/C*	C/C*/D*	A1*	C*	C*
5	Mortgage Examinations					A		B*	D			
6	Mortgage Licensing and Registration		A/G*					B*	D			
7	Payroll and Human Resources			F*	E*				E*	F*		
8	Procurement/Contract Management/HUB				E*			B	D*/E*			A
9	Records Management										A	
10	Revenue Accounting Process	A						B	D*			
11	Thrift Examinations							A	D			
12	Thrift Supervision and Compliance			A				B*	A/D			

**Note:** Performance Measures is included in the scope of the applicable audit area(s).

**Legend (audits/reviews with asterisk are considered limited scope for the audit area)**

- A Internal audit performed by Garza/Gonzalez & Associates, CPAs.
- A1 Internal audit performed by McConnell & Jones LLP.
- B Audit performed by the State Auditor's Office (SAO).
- C IT assessment performed by the Department of Information Resources (DIR) or a third-party vendor procured through the DIR.
- D Sunset Review performed by the Sunset Advisory Commission.
- E Post Payment Audit performed by the Comptroller of Public Accounts.
- F Review performed by the Texas Workforce Commission.
- G Review performed by the Department of Public Safety.



# Texas Financial Education Endowment (TFEE)

## TFEE Report – August 20, 2021

### ACTIVITIES RELATING TO THE TEXAS FINANCIAL ENDOWMENT FUND

The 2020-2021 TFEE grant cycle third semi-annual reports were due on July 31. Reimbursement requests are under review and being processed. The third semi-annual report will be available during the October Finance Commission meeting.

The 2022-2023 TFEE grant cycle application window launched on July 1, 2021. We are currently asking for applications through the TFEE website, by direct targeted email, and TFEE social media accounts. The deadline to submit applications is September 1, 2021. Grant applications will then be reviewed by the GAC. Recommendations for grant awards will be made during the October Finance Commission meeting. The 2022-2023 grant cycle will begin January 1, 2022.