

Agency Strategic Plan
For the Fiscal Years 2007-2011 Period

Submitted to:
The Governor's Office of Budget, Planning, and Policy
And the Legislative Budget Board

By:

Office of Injured Employee Counsel



July 7, 2006

A handwritten signature in cursive script that reads "Norman Darwin".

Signed: _____

Norman Darwin, Public Counsel

Table of Contents

<i>Vision, Mission, and Philosophy of Texas State Government</i>	3
<i>Relevant Statewide Priority Goals and Benchmarks</i>	5
<i>OIEC Mission and Philosophy</i>	6
<i>External/Internal Assessment</i>	7
A. <i>Overview of Agency Scope and Functions</i>	7
B. <i>Organizational Aspects</i>	9
C. <i>Fiscal Aspects</i>	13
D. <i>Service Population Demographics</i>	15
E. <i>Technology</i>	16
F. <i>Economic Variables</i>	18
G. <i>Federal and State Legal Issues</i>	19
H. <i>Self Evaluation and Opportunities for Improvement</i>	20
<i>Agency Goals</i>	21
<i>Objectives and Outcome Measures</i>	22
<i>Strategies and Output, Efficiency, and Explanatory Measures</i>	23
<i>Appendices</i>	25
A. <i>Description of Agency’s Planning Process</i>	25
B. <i>Current Organizational Chart</i>	26
C. <i>Five-Year Projections for Outcomes</i>	27
D. <i>List of Measure Definitions and Action Plans</i>	28
E. <i>Workforce Plan</i>	43

Vision, Mission, and Philosophy of Texas State Government

Vision of Texas State Government

Working together, we can accomplish our mission and address the priorities of the people of Texas.

Assuring open access to an educational system that not only guarantees the basic core knowledge necessary for productive citizens but also emphasizes excellence and accountability in all academic and intellectual undertakings;

Creating and retaining job opportunities and building a stronger economy that will lead to more prosperity for our people and a stable source of funding for our core priorities;

Protecting and preserving the health, safety, and well-being of our citizens by ensuring healthcare is accessible and affordable and by safeguarding our neighborhoods and communities from those who intend harm; and

Providing disciplined, principled government that invests public funds wisely and efficiently.

Mission of Texas State Government

Texas State Government must be limited, efficient, and completely accountable. It should foster opportunity and economic prosperity, focus on critical priorities, and support the creation of strong family environments for our children. The stewards of the public trust must be men and women who administer state government in a fair, just, and responsible manner. To honor the public trust, state officials must seek new and innovative ways to meet state government priorities in a fiscally responsible manner.

Philosophy of Texas State Government

The task before all state public servants is to govern in a manner worthy of this great state. We are a great enterprise, and as an enterprise we will promote the following core principles:

- ❖ First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics, or individual recognition.
- ❖ Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.
- ❖ Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.
- ❖ Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. Just as competition

inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.

- ❖ Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.
- ❖ State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse, and providing efficient and honest government.

Finally, state government should be humble, recognizing that all its power and authority is granted to it by the people of Texas, and those who make decisions wielding the power of the state should exercise their authority cautiously and fairly.

Relevant Statewide Priority Goals and Benchmarks

Priority Goals:

To provide citizens with greater access to government services while reducing service delivery costs and protecting fiscal resources for current and future taxpayers.

To ensure Texans are effectively and efficiently served by high-quality professionals and businesses by implementing clear standards, compliance, market-based solutions, and reducing the regulatory burden on people and business.

Benchmarks:

- ❖ Total state spending per capita
- ❖ Number of state employees per 10,000 population
- ❖ Number of state services accessible by the Internet
- ❖ Savings realized in state spending by making reports, document, and/or processes available on the Internet
- ❖ Number of utilization reviews conducted for treatment of occupational injuries

OIEC Mission and Philosophy

Mission

The mission of the Office of Injured Employee Counsel (Office) is to educate and assist injured employees and advocate for them as a class in order to achieve a balanced workers' compensation system which protects the rights of all injured employees in Texas; to provide quality services and assistance to guide injured employees through the workers' compensation system.

Philosophy

The Office of Injured Employee Counsel is dedicated to serving the injured workers of Texas in an efficient, effective, and fair manner. Each staff member must adhere to the highest ethical standards in every aspect of the operation of the Office. The Office performs the following services in support of its mission and philosophy:

Advocacy

- Identify issues that increase burdens or create problems for injured employees and address those issues in the legislative and rulemaking processes and through the simplification of procedures and forms.
- Monitor the performance of the workers' compensation system, with a focus on return to work of injured employees.

Customer Service

- General Customer Service: Educate and provide general assistance to injured employees regarding the workers' compensation system.
- Referrals to Other Agencies: Provide referrals to other local, state and federal agencies, including the Department of Assistive & Rehabilitative Services (DARS), as appropriate.
- Complaints Regarding Health Care Providers: Assist in referring complaints received from injured employees regarding health care providers to the appropriate entities and licensing boards.

Ombudsman Program

- Provide an ombudsman once a proceeding has been scheduled to assist the injured employee throughout the dispute process.

External/Internal Assessment

A. Overview of Agency Scope and Functions

The Office of Injured Employee Counsel (Office) was established on March 1, 2006, as part of a broad effort to reform the workers' compensation system in Texas. The statutory authority for the Office is found in the Texas Labor Code, Chapter 404.

The Office serves as an advocacy agency to protect the rights of injured employees by participating in the workers' compensation rule making process, providing free Ombudsman assistance to unrepresented injured employees in proceedings before the Division of Workers' Compensation, and by providing services, referrals, and educational information to the injured employees of Texas.

Service Population

As a result of the voluntary nature of workers' compensation coverage in Texas, the Office is only responsible for assisting and educating injured employees whose employers participate in the regulated Texas workers' compensation system.

The Office considers injured employees or beneficiaries of persons fatally injured on the job whose employers have workers' compensation coverage to be its primary service population. Other key system participants who the Office must work with to ensure a fair and balanced system include, but are not limited to, employers, insurance carriers, health care providers, attorneys and other party representatives, uninjured employees, and relatives and friends of injured employees.

The Office makes every effort to provide information and excellent customer service to all of its customers in order to meet or exceed their needs and expectations. Examples of the services provided by the Office include:

- ❖ Advocating on behalf on injured employees in the rulemaking process
- ❖ Information regarding injured employees' Rights & Responsibilities
- ❖ Free assistance to injured employees in preparing and presenting their cases in administrative proceedings
- ❖ Referrals to other state agencies or social service entities to help injured employees or their families with their financial or physical limitations
- ❖ Education and general customer service for injured employees and other participants regarding the workers' compensation system, its processes, and requirements.

Public Perception

As a new agency, many customers and the public at large confuse the agency's role with the workers' compensation system regulators, the Texas Department of Insurance (Department) and the Division of Workers' Compensation (Division). The Office attempts to clearly delineate its functions from those of the regulatory functions performed by the Department and the Division and clarify the nature of its administrative attachment to the Department through outreach efforts and publications.

Discussion of Current Year Activities

The Office has spent the first 120 days of its existence establishing the agency and has put a solid infrastructure in place to enable it to further its mission.

Since its creation, the Office has accomplished the following:

- ❖ Established its toll free number (1-866-EZE-OIEC; 1-866-393-6432)
- ❖ Launched its internal and external websites
- ❖ Developed and published a Benefit Review Conference Educational Video for injured employees
- ❖ Filled several key leadership positions
- ❖ Developed its Strategic Plan for 2007-2001
- ❖ Developed its Plan for Non-English Speaking Customers
- ❖ Established its central administration processes in conjunction with the Department
- ❖ Established its Performance Measures and reporting requirements for those measures
- ❖ Reviewed and commented on several important workers' compensation rules proposed by the Division and/or the Department
- ❖ Proposed its first rule regarding Ombudsman Education & Training requirements
- ❖ Published revised Rights and Responsibilities for injured employees
- ❖ Began a Pilot Project with the Division to determine the appropriate staffing model to support the "One-Stop Shop" for injured employees
- ❖ Published its first two Quarterly Review newsletters

For the remainder of FY06 and throughout FY07, the Office will be working on the following projects:

- ❖ Conduct its first OIEC Team Educational Conference for all employees
- ❖ Publication of its Employee Manual (employee policies and procedures)
- ❖ Establish an interim plan for customer service for injured employees based upon the outcome of the pilot project
- ❖ Development of its Legislative Appropriations Request for FY08-09
- ❖ Development of its Contested Case Hearing Educational Video for injured employees
- ❖ Development and publication of the Employer's Rights & Responsibilities
- ❖ Publish its Legislative Report, due December 1, 2006
- ❖ Work with the Department regarding information resources projects to upgrade the network and desktops
- ❖ Contract externally for development of its annual Risk Assessment to the State Auditor's Office
- ❖ Develop and implement a comprehensive employee training plan

B. Organizational Aspects

Structure and Demographics

The Office is authorized to employ 122 positions, and is currently funded to staff 113 full time equivalent positions consisting of the Public Counsel, the Deputy Public Counsel, attorneys, ombudsmen, ombudsmen assistants, support staff, and two injured employee service representative to answer calls received on its toll free number.

The Public Counsel is appointed by the Governor and confirmed by the Senate to a two year term which expires February 1st of each odd numbered year. The Public Counsel serves as executive director of the Office with authority over day-to-day operations and legal decisions. The current Public Counsel is Norman Darwin, appointed by Governor Rick Perry in December of 2005. The agency is located in Austin, Texas, and employs staff in its central office and 24 field offices located across the state.

Because of the nature and complexity of workers' compensation issues, specialized knowledge and expertise is required for all ombudsmen who assist unrepresented injured employees in administrative proceedings before the Division. Experienced attorneys are also required in order to conduct research and develop legal strategies to assist the ombudsmen. Although the Office is administratively attached and supported in the performance of many administrative functions by the Department, administrative coordination and policy development personnel are required to fulfill all of the responsibilities of Texas state agencies.

Approximately 85% of the Office's personnel are located in the 24 field offices across the state with the remaining staff located in its Central Office location. The Office recognizes the importance of a diverse workforce and adheres to Equal Employment Opportunity policy requiring full compliance and non-discrimination guidelines as set out by state and federal regulations. Currently, 84% of the Office's personnel are women and 16% are male. The Office's demographic composition of its workforce is as follows:

- ❖ 1.04% Other
- ❖ 13.54% Black
- ❖ 44.79% Hispanic
- ❖ 40.63% White

The Office has provided an Organizational Chart as Appendix B of this document, but essentially the agency is structurally managed using three major organizational lines reporting up to the Deputy Public Counsel and the Public Counsel (Executive Office). These three organizational areas are:

Injured Employee Services supports an Ombudsman Program that assists unrepresented injured employees through the administrative proceedings process and provides administrative support services to the Ombudsman Program. This service team also supports general customer service for all injured employees.

Legal Services supports the Ombudsman Program through a team of regional staff attorneys who conduct research, assist ombudsmen with development of legal strategies, and respond to legal questions. This service team also supports the agency's advocacy role through rule comment and rule development, workgroup participation, and provides the legal perspective regarding employee relation issues and agency contracts.

Policy Development establishes the policies, procedures, public and governmental relations practices, and training programs that support the day-to-day operations of the agency. This service team also performs all agency central administration functions not performed by the Department or the Division for the agency and serves as the liaison to the Department regarding its administrative support functions for the agency. This service team also coordinates field office facility, personnel, or managerial issues with the Division.

Service Locations

The Office's central location is located in Austin, Texas and provides technical support for the agency by developing and commenting on rules, analyzing data and performance measures, and providing central administration for the agency as well as serving as the liaison to the Division and the Department regarding managerial, service, and administrative issues.

The Division manages 24 field office locations and Office staff are located in each of these field offices. In addition to field offices, ombudsmen may also travel to designated proceeding locations such as those in Mt. Pleasant and Uvalde to ensure injured employees do not have to travel in excess of 75 miles. Field office locations are generally determined by the Division based upon claim activity and demand for services in a specific geographic area. Office personnel provide general customer service and ombudsmen service.

Staff attorneys are located in designated field offices to support the Ombudsman Program. Staff attorneys conduct legal research and develop strategies regarding legal issues and respond to legal questions posed by ombudsmen. At least one ombudsman and one ombudsman assistant are located in every office. Some offices are staffed with additional Office personnel generally based upon the number of proceedings that are docketed for unrepresented injured employees.

Field offices are located in Abilene, Amarillo, Austin, Beaumont, Bryan/College Station, Corpus Christi, Dallas, Denton, El Paso, Ft. Worth, Houston East, Houston West, Laredo, Lubbock, Lufkin, Midland/Odessa, Missouri City, San Angelo, San Antonio, Tyler, Victoria, Waco, Weslaco, and Wichita Falls.

A customer service issue that is unique to all of the bordering areas of the state is how to meet the needs of employees who were working in Texas when injured but now reside in other states. If an injured employee lives within 75 miles from the interstate border, the Division designates the closest field office to manage the claim. If an injured employee lives more than 75 miles from the border the claim is handled by the Victoria field office. This means the Office's ombudsmen assistance assignment is determined based on the

Division's claim file and field office designation for the claim as the claim's designated service office is also the proceeding location for any disputes.

Injured employees who live within 75 miles of the Texas-Mexico border are assigned and serviced by Corpus Christi, El Paso, Laredo, Midland, San Angelo, San Antonio, or Weslaco. These offices are also the proceeding locations for disputes that arise regarding these claims with some additional proceedings being held in Uvalde.

Injured employees who live within 75 miles of the Texas-Louisiana border are assigned and serviced by the Tyler field office. Injured employees who live within 75 miles of the Texas-Oklahoma/Arkansas border are assigned and serviced by the Amarillo, Wichita Falls, and Denton field offices. Injured employees who live within 75 miles of the Texas-New Mexico border are assigned and serviced by Lubbock, Amarillo, and El Paso.

The Office has taken measures to address the rising demand for Spanish speaking ombudsmen and personnel who can assist Spanish speaking injured employees. Many Office positions are posted with Spanish speaking skills preferred, if not required, particularly in highly populated Hispanic areas of the state. The Division contracts for translators for its formal proceedings, but not for Benefit Review Conferences. Many of the ombudsmen serve as translators in these informal proceedings and in providing general customer service to Spanish speaking customers of both the Office and the Division.

Key Organization/Environmental Issues

Several issues within the workers' compensation system in Texas will affect the complexion of the Office over the next several years.

“One Stop Shop” Services for Injured Employees – The Office is currently working with the Division on a pilot project which is tracking the percentage of callers who are injured employees versus other types of customers so that a more appropriate staffing level can be determined for the Office. As the demand increases for injured employees to be serviced by a single entity regarding all of their basic workers' compensation questions, issues, disputes, proceedings and advocacy needs, there is likely a need to increase the staffing level for the Office. The Office is currently staffed with the ombudsmen, ombudsmen assistants, and staff attorneys. However, the ombudsmen staff members carry full case loads and spend all of their time preparing injured employees for their administrative proceedings and assisting injured employees at administrative proceedings. The ombudsmen are not involved in an injured employee's case until it is scheduled for a Benefit Review Conference. The Office is not currently staffed to intervene on behalf of the injured employee prior to proceedings being scheduled or to provide general customer assistance to all injured employees. The Division and the Office are also discussing changes to the dispute resolution process prior to proceedings being scheduled. If the Office had additional staff, it could become involved in an injured employee's case prior to a proceeding being scheduled and would attempt to achieve resolution of the issues on behalf of the injured employee. This process change would also allow injured employees to be served by a single entity.

Workers' Compensation Healthcare Networks – Only two workers' compensation networks have been certified at this time, however, it is expected that more networks will become certified over the next biennium and more legacy and new claims will be

converted to in-network medical care. The Office supports networks and believes the networks can potentially reduce disputes for injured employees while providing them with high quality medical care. However, it is unknown what the injured employee response to network services, issues, access to appropriate medical care, or disputes will be and what their demand will be for service and advocacy from the Office regarding these in-network claims.

Adoption of Treatment and Return to Work Guidelines – The Division has formed a workgroup to develop Treatment and Return to Work Guidelines and the Office is participating on this team. The Office believes that both of these guidelines offer the opportunity for improved claim processes and healthcare services for injured employees while focusing on returning them to productive roles in the Texas workforce. However, these guidelines will not only have to uphold a standard of appropriate health care while balancing improved return to work outcomes, but must also align with the processing of both in-network and out of network claims in order to ensure the system is fair and balanced. It is unknown at this time what the injured employee response to these Guidelines will be and what their demand will be for service and advocacy from the Office regarding these issues.

Human Resource Strengths/Weaknesses

Some of the human resource functions typically performed by any state agency are performed by the Texas Department of Insurance on behalf of the Office in accordance with section 404.002 of the Texas Labor Code that describes the agency's administrative attachment to the Department. Many other human resource functions are performed by Office personnel including, but not limited to, employee training, succession planning, a large portion of the hiring process, handling of disciplinary actions, managing its employee awards program, and the handling all issues that arise in accordance with the Family Medical Leave Act (FMLA) and American Disabilities Act (ADA) due to the legal nature of these federal statutes.

Due to the infancy stage of the Office, many of the Texas Department of Insurance's policies and procedures were adopted to provide staff with interim guidance until the Office could establish its own policies and procedures.

Anticipated Use of Consultants

The Office foresees a possible need to hire a consultant or vendor once per year to perform its annual risk assessment to include an IT data security assessment in accordance with State Auditor's Office requirements.

Agency's Use of Historically Underutilized Businesses (HUBs)

The agency's contracts are bid out and awarded through the purchasing department of the Texas Department of Insurance. Therefore, its use of HUBs would count within the state reporting requirements supplied by the Department. Should the Office be involved in the contracting and award process it is supportive of giving additional points to vendors who are HUBs in order to increase HUB utilization and participation and assist the Department with its HUB reporting measures and credits.

C. Fiscal Aspects

Budget

For the fiscal year 2006-2007 biennium, the Office was appropriated \$9,459,000 per Senate Bill 1, 79th Legislature, Regular Session.

As the agency was just formed and had no approved agency strategic plan it had no approved strategies across which to allocate its funding. All of the Office's budget for fiscal year 2006 was transferred from the Texas Department of Insurance to the Office in May 2006. With the approval of the Office's first Strategic Plan, four strategies will exist that the Office will use to allocate its funding. These strategies are spelled out in the "Strategies, Output, Efficiency, and Explanatory Measures" section of this document, but in summary they include:

- ❖ Advocacy for injured employees as a class through the rulemaking process
- ❖ Education and outreach to injured employees and other system participants regarding the workers' compensation system and the role of the Office
- ❖ Referrals to injured employees to other state agencies or social services
- ❖ Free assistance to injured employees in preparing and presenting their case in administrative proceedings before the Division through the Ombudsman Program

Once this plan is approved and the agency's Legislative Appropriations Request for the 2008-2009 biennium is developed, the Office's budget will be distributed in accordance with its strategies.

The agency is currently capped at 122.0 full-time equivalent positions and foresees a need to request that its cap be increased in order to provide "One Stop Shop" services to injured employees.

Funding

The agency's sole source of revenue is generated by a maintenance tax paid by insurance companies who write workers' compensation insurance policies in Texas. The maintenance tax is set at an amount to cover the cost of regulatory operations of the Texas Department of Insurance, Division of Workers' Compensation and the cost of operations of the Office of Injured Employee Counsel. The tax is collected by the Texas Comptroller of Public Accounts and is deposited in the state's General Revenue Fund.

The tax is set at a rate that may not exceed 2% of the total gross workers' compensation premium collected in the state during the previous calendar year.

The Office is allowed one other funding source in accordance with 404.106(c) which states that the Office may charge a publication fee for dissemination of its Legislative Report to other interested parties. However, at the time of the submission of this Plan, the Office has no plans to charge a separate fee for this publication and will allow the report to be downloaded from its Internet website free of charge.

The Office believes its current funding level is appropriate to support the Ombudsman Program and the additional staff attorneys allocated to it with its enacting legislation. However, if the Legislature believes that the Office should serve as a "One Stop Shop" for injured employees, then a need to increase its staffing level and funding level exists. It is expected that the agency would be able to fulfill all of the goals and expectations of the "One Stop Shop" for injured employees with an increase in personnel from 122.0 to 198.0. The Office expects that its upcoming Legislative Appropriations Request will reflect an exceptional item that would allow for this adjustment.

Should there be a need to meet the expectations of the "One Stop Shop" before the beginning of the 2008-2009 biennium, a request to exceed the current FTE cap would be submitted to the Legislative Budget Board upon agreement with the Department and the Division. The Office would then enter into an interagency contract with the Department and the Division which would address the transfer of the specified personnel and the appropriate salary and budget dollars required for the Office to support its additional responsibilities while relieving the Division of some of the injured employee service responsibilities it currently supports.

Currently, all capital dollars are allocated to the Texas Department of Insurance and are used by the Office. This includes all technology and other capital assets.

All lease costs are paid by the Texas Department of Insurance, Division of Workers' Compensation regarding the central office and field office facilities which house the Office of Injured Employee Counsel's personnel. A few field office leases are due for renewal during the current and future biennium and the Office will work with the Division to renegotiate leases or move personnel to new facilities when leases expire.

D. *Service Population Demographics*

Texas Population & Growth

According to population growth rates for Texas metropolitan areas, every shared Division and Office of Injured Employee Counsel field office has seen an increase in the population for its service areas, particularly in its large metropolitan areas and the areas serviced by the Weslaco and Laredo field offices.

The population of the Lone Star State reached 22,859,968 in 2005, according to the latest estimates from the US Census Bureau. The 2000 Census indicates that 82.5 percent of Texas' population lives in metropolitan areas. The urbanizing of Texas is underscored by recent growth trends - the state's metropolitan areas accounted for over 91 percent of Texas population growth between 1990 and 2000. Growth has occurred primarily in the large metropolitan areas of Austin, Dallas, Houston, and San Antonio. Austin added 403,536 people during the 1990s, increasing its population by nearly 50 percent.¹

Other areas with significant growth are metropolitan areas located along the Mexico border, such as McAllen, Brownsville, and Laredo. One of the fastest growing regions in the state, the Lower Rio Grande Valley, houses two adjacent metropolitan areas - McAllen and Brownsville. Together they added 261,025 people between 1990 and 2000, about the same as the increase for the entire San Antonio metro area during the same period.²

According to the most recent population projections from the Texas State Data Center at A&M, the Texas population is expected to reach 35 million by 2040. This would be an approximately 68 percent increase of the state's population from 20.85 million in 2000. Hispanics will account for 83 percent of this growth and are expected to outnumber Anglos in Texas by 2020. (These projections are based on the State Data Center's "0.5" migration scenario.) In 2005, Texas became the fourth "majority-minority" state, with a minority population comprising 50.2% of its total population, according to the US Census Bureau.³ This is an indication that the Office must have educational information, publications, and provide all of its interactive services in Spanish as the Hispanic population continues to increase, so does the Hispanic workforce in Texas.

¹ Office of the Governor Economic Development & Tourism in conjunction with the Business and Industry Data Center "The Texas Economy" Retrieved June 21, 2006, from <http://www.bidc.state.tx.us>

² Ibid

³ Ibid

E. Technology

The Office of Injured Employee's technology needs are provided either by the Information Technology Division within the Texas Department of Insurance or through state contracts managed through the Department of Information Resources.

Network

In general, the Office is supported through a series of local area networks within each location and these are shared between the Division and the Office personnel located within each facility. All of these local area networks are tied together through a wide area network, largely monitored and maintained by the Department of Information Resources. The Office understands that the Department is planning to replace and upgrade the network across the state within its current FY06-07 budget. The Department is also working to migrate its network operations to the statewide data center through a Department of Information resources contract in accordance with HB1516.

E-mail

The Office is supported on GroupWise for its email system, which is the same email system used by the Department and the Division. However, as a separate agency, the Office may require different email policies than those instituted within the Department due to the nature of its business, specifically regarding email archival. To this date, the Department has been supportive of the Office having separate policies than the Department. The Department of Information Resources has awarded IBM with a state contract to allow state agencies to migrate to the state's email messaging solution and this opportunity is being considered by the Office and by the Department.

Desktop

The Office is utilizing personal computers and laptops purchased in excess of six years ago by the Texas Workers' Compensation Commission. The Department is working toward replacing all of the personal computers within the Department, Division and Office within the current biennium. However, should plans not be in place to do that within the FY07 fiscal year, the Office will be considering submission of an exceptional item request for the 08-09 biennium through the Department's LAR process in order to update the desktops used by Office personnel.

Printers

The Office is using printers purchased by the Texas Workers' Compensation Commission over eight years ago. The Department is looking at options to assist with the replacement of this old technology within the current biennium. However, should plans not be in place to do that within the FY07 fiscal year the Office will be considering submission of an exceptional item request for the 08-09 biennium through the Department's LAR process in order to update the printers used by Office personnel.

Telecommunications

The phone systems for the Office are antiquated and lack many of the options and features available within most call center operations today. The Office believes a complete replacement of its field office phone systems is in order and is working with the

Department regarding a submission of an exceptional item request for the 08-09 biennium through the Department's LAR process to update the phone systems statewide.

Video/Web Conferencing and Recording for Training and Staff Development

The Office currently requests the equipment and resources as needed whenever it must develop a training video or educational videos for injured employees, as well as record training sessions or conferences to launch on its website for subsequent viewing. With one set of equipment and a limited number of trained resources to run the equipment being shared between the Department, the Division, and the Office, the Office has experienced some delays in meeting its own training plans and objectives. The Department has committed to conducting an analysis of purchasing a subsequent set of the equipment and developing additional resources to support it or requesting the business areas to hire or train resources to operate it as needed. Should this solution be workable, the Office will continue to share resources as originally envisioned. However, should an agreed upon plan not be presented before the submission of the LAR, the Office will likely include an exceptional item request for the 08-09 biennium through the Department's LAR process in order to acquire this necessary equipment.

Application Systems

The Office of Injured Employee Counsel is supported by four separate application systems currently maintained and/or developed by the Division or the Department. The primary system used by the Office is the COMPASS system which is a mainframe application housing all of the Office's Ombudsman preparation appointment, proceeding attendance, workers' compensation claim note entries, and auto-letter generation processes. These processes may be planned for migration from the mainframe to another platform based on the technology plans of the Department, but the Office is unsure as to what those plans are or what the timeframes for migration of its processes might be. Original estimates slated migration of these processes by August 31, 2007. The Office has little interest in what platform supports these processes as long as its current processes remain intact and its current and planned business requirements can be readily met. Minor enhancements estimated at less than 300 hours have been submitted to the Department to modify some of the current processes to conform with new HB7 requirements or performance measure reporting needs of the Office.

The TXCOMP application houses the core of the claim system that the Office uses to look up claim information, claim parties and their contact information, and for viewing scanned images of claim file documents. This application supports the ability for injured employees to file their claims online in English or Spanish and also generates the employee's Rights & Responsibilities information packet when a claim is first established. The Office understands that the Department is working to stabilize this application and the Office is supportive of any platform that supports both current system processes and its current and planned business requirements.

The CompData application is a SAS based application accessible via the TDI/DWC Intranet and it houses performance measures and reporting for the Office. General customer assistance data, proceedings and dispute data, and Ombudsman assistance data is accessible to the Office as needed. There are no plans that the Office is aware of for TDI to discontinue support of this application. The Office also uses DT Search to access Appeal Panel Decisions and this application is supported by TDI.

F. Economic Variables

Income and Education

Although the Texas economy continues to grow and thrive, Texas consistently reports higher poverty rates than the nation as a whole. Poverty and low wages are often a direct result of lower educational achievement. Poorer persons and individuals with low education levels often accept employment where low skill levels are required but the occupational hazards are high. This increases the likelihood for on-the-job injuries. Poorer, less educated workers are generally less informed or aware of available resources and services. Therefore, the Office must take into account the education and literacy levels of the Texas workforce when developing its communications and in its dissemination of informational and educational materials.

Workers' Compensation Insurance Market

Although approximately 65%⁴ of Texas employers carry workers' compensation insurance coverage, this number may decline based upon Texas being the remaining state in the nation that does not mandate workers' compensation insurance coverage. Fluctuations in coverage impacts OIEC as the Office only assists in injured employees whose employers are covered by workers' compensation insurance.

⁴ Research and Oversight Council, "Non-Subscription to the Texas Workers' Compensation System: 2001 Estimates," Texas Monitor, Volume 6, Number 4, Winter 2004.

G. Federal and State Legal Issues

Healthcare One of the primary goals of House Bill 7, 79th Texas Legislature, Regular Session was to provide medical cost containment in Texas while ensuring access to doctors and high quality medical care. Healthcare delivery, networks, fee and treatment guidelines, and many other health care issues impact provider participation in the Texas system which directly impacts the injured employees of Texas. OIEC is participating in several workgroups and will continue to provide rule comments through the informal and formal rulemaking process to protect the interests of injured employees as a class on these critical issues.

Healthcare and its associated costs continue to be a subject of debate on both state and national levels. Although workers' compensation was carved out of the Healthcare Insurance Portability and Accountability Act (HIPAA), it continues to impact the healthcare providers and payers that participate in other healthcare systems as well as workers' compensation. Processes within the workers' compensation system must be mindful of HIPAA requirements and try to align to HIPAA where it makes sense to do so in order for participants to develop business processes that work for multiple lines of insurance. Due to the fact that confidentiality requirements of HIPAA are not identically aligned with the confidentiality requirements of the Texas Labor Code, confusion and complexity currently exist for the Texas system's participants.

Post Injury Waivers Currently, an employer who is not carrying workers' compensation insurance may use a post-injury liability waiver by asking an employee to sign a document relinquishing the worker's common law right to sue the employer. House Bill 7 places statutory limitations on the validity of post-injury waivers signed by employees of non-subscribing employers. These limitations include:

- ❖ prohibiting the signing of a waiver before the 10th business day after the date of the initial report of injury;
- ❖ ensuring that a worker has received a medical evaluation from a non-emergency doctor;
- ❖ and ensuring that the waiver is voluntary and is clearly identifiable in any written agreement (i.e. is not a condition of employment).

Pre-injury liability waivers were prohibited with the adoption of House Bill 2600, 77th Texas Legislature.

Return-to-Work One of the primary goals of House Bill 7, 79th Texas Legislature, was to improve return to work outcomes for injured employees in Texas. It is critical that injured employees get back to productive employment as quickly and safely as possible. House Bill 7 requires the Division to disseminate return-to-work information to both employers and employees.

Indemnity Benefits House Bill 7, 79th Texas Legislature, increased the maximum weekly temporary income benefit starting September 1, 2006 to approximately \$625.00. It also reduced the "waiting period" for injured employees to be paid for the first week of work missed following an injury from twenty-eight days to two weeks.

H. Self Evaluation and Opportunities for Improvement

The Office of Injured Employee Counsel (Office) was created on March 1, 2006. Therefore, the Office is in a “development” phase at this time in establishing its organizational structures, its operational and internal processes, and its administrative processes. The Office is currently working in conjunction with the Department on those processes and in developing its first Strategic Plan for performance monitoring and reporting.

While the Office is committed to a philosophy of continuous improvement, the agency has only been in existence for four months. At this time, it is premature to evaluate the Office’s processes for opportunities for improvement. However, once processes are established and in place, the Office will seek opportunities for continuous improvement.

The agency is charged with an advocacy role as well as a responsibility to assist injured employees with their claims and it takes this charge very seriously. The Office is working closely with the Division and the Department to ensure it can be effective in its role. All of the entities involved in workers’ compensation must work together to succeed and achieve the goals prescribed by House Bill 7. The Office will continue to look for opportunities to improve its processes, its performance, and its relationships with all system participants to the benefit of the system as a whole.

Agency Goals

Goal 1: To advocate effectively on behalf of injured employees participating in the Texas workers' compensation system in rulemaking or other public forums involving workers' compensation matters.

Goal 2: To increase effective injured employee education regarding their rights and responsibilities within the Texas workers' compensation system, provide injured employees with referrals to other state agencies or services available to assist them, to assist injured employees with filing complaints regarding healthcare providers, and to educate all system participants regarding the role of OIEC.

Goal 3: To assist injured employees participating in the Texas workers' compensation system through the Ombudsman Program and throughout the workers' compensation dispute resolution process.

Objectives and Outcome Measures

Objective 1.1 In each year, review 100% of the workers' compensation rules informally or formally proposed and identify rules that impact injured employees and provide informal comments and/or Public Comment to ensure rules adequately protect injured employees and to act as a resource in legislative proceedings or other public forums addressing workers' compensation.

Outcome Measures:

- 1.1. OC1 Percentage of workers' compensation formal or informal rules analyzed by OIEC
- 1.1. OC2 Percentage of workers' compensation formal or informal rulemaking processes in which OIEC participated
- 1.1. OC3 Percentage of rules changed for the benefit of injured employees as a result of OIEC participation

Objective 2.1 To inform all injured employees by efficient means about their rights and responsibilities by reaching 75% of those injured employees each year whose claims were reported to the Division of workers' Compensation. To refer injured employees to agencies or service entities that can assist them or to licensing boards regarding complaints received against healthcare providers. To educate all system participants regarding the role of OIEC to ensure a balanced system.

Outcome Measures

- 2.1. OC1 Percentage of injured employees educated regarding their Rights & Responsibilities

Objective 3.1 Each year, offer assistance to 100% of the injured employees who are not represented by attorneys and provide assistance at proceedings to 100% of injured employees not represented by attorneys who accept the assistance of an Ombudsman

Outcome Measures:

- 3.1. OC1 Percentage of proceedings held before the Division of Workers' Compensation in which the injured employee was assisted by an Ombudsman
- 3.1. OC2 Percentage of issues raised at Contested Case Hearings where the injured employee prevailed when assisted by an Ombudsman
- 3.1. OC3 Percentage of issues addressed on Appeal where the injured employee prevailed when assisted by an Ombudsman
- 3.1. OC4 Average indemnity cost avoided per injured employee assisted by an Ombudsman

Strategies and Output, Efficiency, and Explanatory Measures

Strategy 1.1.1:

To actively participate in the workers' compensation rulemaking process regarding the Texas workers' compensation system on behalf of injured employees. To provide information, research assistance, and testimony to the Legislature and Executive Branch including testimony regarding ad hoc reports, special research, or analytical projects for current workers' compensation issues or trends impacting injured employees participating in the workers' compensation system.

Output Measures

- 1.1.1 OP1 - Number of rulemaking processes (informal and formal) in which OIEC participated
- 1.1.1. OP2 - Number of rules analyzed by OIEC (informal and formal)
- 1.1.1 OP3 - Number of data analysis projects performed by OIEC for inclusion in its Legislative Report

Strategy 2.1.1:

To contact injured employees regarding their rights and responsibilities and regarding their insight and experience on the workers' compensation system and to assist injured employees who contact OIEC regarding their rights and responsibilities. To educate all system participants regarding the role of OIEC to ensure a balanced system.

Output Measures

- 2.1.1. OP1 - Number of injured employees educated regarding their Rights and Responsibilities
- 2.1.1 OP2- Number of injured employees assisted by telephone
- 2.1.1 OP3- Number of injured employees assisted at field offices locations
- 2.1.1. OP4- Number of presentations performed by OIEC

Efficiency Measures

- 2.1.1 EF1 - Average time from date of injury to the date an injured employee is sent their Rights and Responsibilities

Strategy 2.1.2:

To refer injured employees to local, state, and federal programs offering financial assistance, rehabilitation, and work placement programs, or other social services. To assist injured employees with filing complaints to the licensing boards regarding healthcare providers.

Output Measures

- 2.1.2 OP1 - Number of injured employees referred to the Department of Assistive and Rehabilitative Services

- 2.1.2 OP2 - Number of injured employees referred to the Texas Workforce Commission or other programs

Explanatory Measure

- EX1 - Number of health care provider complaints received

Strategy 3.1.1:

Prepare injured employees for Benefit Review Conferences and Contested Case Hearing proceedings and attend proceedings with injured employees as requested. Prepare injured employees for appeals and assist them with resolving disputes.

Output Measures

- 3.1.1. OP1 - Number of Benefit Review Conference preparation appointments conducted by an Ombudsman
- 3.1.1. OP2 - Number of Benefit Review Conferences with Ombudsman assistance
- 3.1.1. OP3 - Number of Contested Case Hearing preparation appointments conducted by an Ombudsman
- 3.1.1. OP4 - Number of Contested Case Hearings with Ombudsman assistance
- 3.1.1. OP5. - Number of Appeal preparation appointments conducted by an Ombudsman

Efficiency Measures

- 3.1.1. EF1 Average time from the date a BRC is scheduled to the date of first injured employee contact with an Ombudsman
- 3.1.1. EF2. Average time from the date a CCH is scheduled to the date of first injured employee contact with an Ombudsman

Explanatory Measures

- 3.1.1. EX1 Number of workers' compensation healthcare network complaints received

Appendices

A. Description of Agency's Planning Process

During each fiscal year, OIEC staff meet periodically with various workers' compensation system participants including injured employees, insurance carriers, employers, employee and employer representatives, healthcare providers and other interested parties, including the Texas Department of Insurance and the Division of Workers' Compensation staff to discuss agency programs and services. In addition, the agency reviews the outcomes of the injured employee surveys conducted by the TDI Research & Evaluation Group and tracks the statistics through its website to obtain feedback regarding the services the agency provides and the current state of affairs within the Texas workers' compensation system. Throughout the process the agency obtains and makes note of positive and negative aspects of the agency which are discussed and evaluated. OIEC key personnel meet regularly to discuss performance, performance measures, and agency strategy. Throughout the development process of the Strategic Plan, key components are distributed to key staff for comments and discussion. Meetings are held to finalize the plan for timely submission of the Strategic Plan.

B. Current Organizational Chart

C. *Five-Year Projections for Outcomes*

Outcome Targets

Outcome	2007	2008	2009	2010	2011
1.1 Percentage of workers' compensation formal or informal rules analyzed by OIEC	100%	100%	100%	100%	100%
1.2 Percentage of workers' compensation formal or informal rulemaking processes in which OIEC participated	85%	85%	85%	85%	85%
1.3 Percentage of rules changed for the benefit of injured employees as a result of OIEC participation	50%	50%	50%	50%	50%
2.1 Percentage of injured employees educated regarding their Rights & Responsibilities	75%	75%	75%	75%	75%
3.1 Percentage of proceedings held before the Division of Workers' Compensation in which the injured employee was assisted by an Ombudsman	45%	45%	45%	45%	45%
3.2 Percentage of issues raised at Contested Case Hearings where the injured employee prevailed when assisted by an Ombudsman	40%	40%	40%	40%	40%
3.3 Percentage of issues addressed on Appeal where the injured employee prevailed when assisted by an Ombudsman	40%	40%	40%	40%	40%
3.4 Average indemnity cost avoided per injured employee assisted by an Ombudsman	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00

D. List of Measure Definitions and Action Plans

OUTCOME MEASURES

Measure Number: 1.1 OC1

Title	Percentage of Workers' Compensation Formal or Informal Rules Analyzed by OIEC.
Short Definition	The percentage of workers' compensation rules formally or informally proposed by the Division of Workers' Compensation, which were analyzed by OIEC during the reporting period. Analyzed rules include informal and formal proposals for rule changes filed by the Texas Department of Insurance, the Division of Workers' Compensation, the Office of Injured Employee Counsel, or other workers' compensation system participants which are reviewed to determine if they affect, or have the potential to affect, a class or a substantial number of injured employees.
Purpose/Importance	This measure addresses the agency's statutory duty to intervene on behalf of injured employees as a class in all workers' compensation matters involving rules, forms, or processes.
Source/Collection	An agency database is maintained and utilized to track rule projects and processes for the agency. Agency staff enters information on a regular basis. Data is collected from various sources, including the Texas Register.
Method of Calculation	Sum the total number of workers' compensation rules during the reporting period worked informally or proposed by the Division of Workers' Compensation (DWC) or TDI and those worked informally or proposed by OIEC to capture total (A). Sum the total number analyzed by OIEC to capture total (B). Obtain the percentage that (B) represents of (A) by dividing (B) by (A) to determine value (C). Submit (C) represented as a percentage.
Data Limitations	None
Calculation Type	Non-Cumulative Percentage
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 1.1 OC2

Title	Percentage of Workers' Compensation Formal or Informal Rulemaking Processes in Which OIEC Participated.
Short Definition	Participation in rulemaking processes includes informal and formal projects regarding rule changes proposed by the Texas Department of Insurance, the Division of Workers' Compensation, the Office of Injured Employee Counsel, or other workers' compensation system participants to provide the viewpoint as to how such proposed rules or processes would affect a class or a substantial number of injured employees.
Purpose/Importance	This measure addresses the agency's statutory duty to intervene on behalf of injured employees as a class in all workers' compensation matters involving rules, forms, or processes.
Source/Collection	An agency database is maintained and utilized to track rule projects and processes for the agency. Agency staff enters information on a regular basis. Data is collected from various sources, including the Texas Register.

Method of Calculation	Sum the total number of rules proposed formally or informally by DWC or OIEC during the reporting period to capture total (A). Sum the number of rules proposed formally or informally in which OIEC participated to capture total (B). Obtain the percentage that (B) represents of (A) by dividing (B) into (A) to determine value (C). Submit (C) represented as a percentage.
Data Limitations	None
Calculation Type	Non-Cumulative Percentage
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 1.1 OC3

Title	Percentage of Rules Changed for the Benefit of Injured Employees as a Result of OIEC Participation.
Short Definition	The percentage of workers' compensation rules changed for the benefit of injured employees as a result of agency participation. A beneficial outcome for injured employees includes the adoption or partial adoption of a rule on an injured employee benefit as a result of OIEC's analysis, participation, input, recommendations, and/or Public Comments.
Purpose/Importance	Achieving a positive outcome in the rulemaking process to the benefit of injured employees addresses the agency's statutory duty to intervene on behalf of injured employees as a class in all workers' compensation matters involving rules, forms, and processes. Participating and advocating for injured employees is one of the primary goals of this agency and it is important to monitor this particular outcome to determine the level of benefit injured employees receive due to OIEC's involvement in the rulemaking process.
Source/Collection	An agency database is maintained and utilized to track rule projects and processes for the agency. Agency staff enters information on a regular basis. Data is collected from various sources, including the Texas Register.
Method of Calculation	Sum the total number of rules not including repealed rules in which OIEC participated during the reporting period and subtract from that number the number of rules in which OIEC provided no substantive comment(s) to capture total number of commented rules (A). Sum the outcome of the comments incorporated in the rules to see if proposed rule changes from OIEC were included during informal or formal processes to capture total (B). Obtain the percentage that (B) represents of (A) by dividing (B) into (A) to determine value (C). Submit (C) represented as a percentage. Comments that are non-substantive, such as word-smithing recommendations to rules will not be included as a comment or as a credit to OIEC if incorporated. Rule comments from OIEC may be accepted in whole or in part by the Division or Department and will likely not be accepted verbatim. Partial comment accepted will count equal to full comment accepted as long as a benefit to injured employees remains included in the portion of the comment that was accepted and ultimately adopted.
Data Limitations	None
Calculation Type	Non-Cumulative Percentage
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 2.1 OC1

Title	Percentage of Injured Employees Educated Regarding their Rights & Responsibilities.
Short Definition	The percentage of injured employees for whom claims were reported to the Division of Workers' Compensation during the reporting period who were reached by agency outreach efforts. Injured employees reached through OIEC education efforts include those employees who received their Rights & Responsibilities packet from OIEC when their claim was created by the Division of Workers' Compensation or reported through other means.
Purpose/Importance	This measure addresses the agency's statutory duty to educate and assist injured employees.
Source/Collection	Database of claims established by the Division is maintained by the Division of Workers' Compensation and includes claims reported to the Division by the injured employee or insurance carrier on behalf of the employer. OIEC staff also track returned mailings of the injured employee's packets. Data may include only those claims required to be reported to the Division (lost time of one day or greater).
Method of Calculation	Sum the total number of injured employees during the reporting period for whom claims were reported to DWC to capture total (A). Sum the total number of employees educated regarding their rights and responsibilities by capturing the total mailed First Report packets minus those mailings returned to sender to capture total (B). Obtain the percentage that (B) represents of (A) by dividing (B) by (A) to determine value (C). Submit (C) represented as a percentage.
Data Limitations	Data maintained by the Division may not include injured employees who have less than one day of lost time (medical only).
Calculation Type	Non - Cumulative Percentage
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 3.1 OC1

Title	Percentage of Proceedings Held before the Division of Workers' Compensation in which the Injured Employee was assisted by an Ombudsman.
Short Definition	Disputes scheduled for a proceeding before the Division includes Benefit Review Conferences and Contested Case Hearings in cases where an Ombudsman was assisting the unrepresented injured employee.
Purpose/Importance	This measure addresses the agency's statutory duty to assist unrepresented injured employees in Benefit Review Conferences or Contested Case Hearings through its Ombudsman program.
Source/Collection	An agency claim & dispute system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the dispute/proceeding information. Information is data entered by Division or OIEC staff.
Method of Calculation	Track the total number of disputes scheduled for proceedings at DWC to capture total (A) but adding the Benefit Review Conference and the number of Contested Case Hearings during the reporting period. Sum the total number dispute proceedings (BRC and CCH) where an Ombudsman assisted an injured employee during the reporting period to capture total (B). Obtain the percentage that (B) represents of (A) by dividing (B) into (A) to determine value (C). Submit (C) represented as a percentage.

Data Limitations	None
Calculation Type	Non-Cumulative Percentage
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 3.1 OC2

Title	Percentage of Issues Raised at Contested Case Hearings (CCH) where the Injured Employee Prevailed When Assisted by an Ombudsman
Short Definition	The percentage of issues raised at a contested case hearing (CCH) before the Division of Workers' Compensation for which an injured employee prevailed when assisted by an agency ombudsman. One or more disputed issues may be raised at a Contested Case Hearing. Prevailed is determined by counting the number of issues where the Hearing Officer rules in favor of the injured employee.
Purpose/Importance	This measure addresses the agency's statutory duty to effectively assist unrepresented injured employees in disputes before the Division through its Ombudsman program.
Source/Collection	An agency claim & dispute system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the dispute/proceeding outcome information. Information is data entered by Division staff.
Method of Calculation	Sum the total number of issues raised in CCHs conducted at DWC where the injured employee was assisted by an Ombudsman during the reporting period to capture value (A). Sum the number of issues where when an injured employee prevailed on an issue when assisted by an Ombudsman to capture value (B). Obtain the percentage that (B) represents of (A) by dividing (B) by (A) to determine value (C). Submit (C) represented as a percentage.
Data Limitations	None
Calculation Type	Non-Cumulative Percentage
New Measure	Yes
Desired Performance	Higher Than Target

Measure Number: 3.1 OC3

Title	Percentage of Issues Raised on Appeal where the Injured Employee Prevailed When Assisted by an Ombudsman
Short Definition	The percentage of issues in an appeal proceeding at the Division of Workers' Compensation during the reporting period for which the injured employee prevailed when assisted by an agency ombudsman. One or more disputed issues may be raised on Appeal. Prevailed is determined by counting the number of issues where the Hearing Officer rules in favor of the claimant and that claimant was assisted by an Ombudsman.
Purpose/Importance	This measure addresses the agency's statutory duty to effectively assist unrepresented injured employees in disputes before the Division through its Ombudsman program.
Source/Collection	An agency claim & dispute system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the dispute/proceeding outcome information. Information is data entered by Division staff.
Method of Calculation	Sum the total number of issues raised in Appeals conducted at DWC where the injured employee was assisted by an Ombudsman during the reporting period to capture value (A). Sum the number of issues where when an injured employee prevailed on an appealed issue

	when assisted by an Ombudsman to capture value (B). Obtain the percentage that (B) represents of (A) by dividing (B) into (A) to determine value (C). Submit (C) represented as a percentage.
Data Limitations	None
Calculation Type	Non-Cumulative Percentage
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 3.1 OC4

Title	Average Indemnity Cost Avoided per Injured Employee Assisted by an Ombudsman
Short Definition	The average indemnity cost avoided for all injured employees resulting from ombudsman assistance. Attorneys charge fees for their services and submit fees to the Division for approval for payment. An average of these charges on attorney-assisted cases would presumably be charged to any represented injured employee. OIEC provides Ombudsman assistance free of charge and therefore, Ombudsman-assisted employees do not incur these potential charges which could then be subtracted from their indemnity benefits.
Purpose/Importance	This measure addresses the cost savings that OIEC assisted injured employees experience by using the free services of an Ombudsman.
Source/Collection	An agency attorney fee system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to document the fees charged against an injured employees indemnity benefits. Attorneys enter data online or Division enter data into the system.
Method of Calculation	Sum the costs approved by DWC to be paid out to attorneys from indemnity benefits using attorney fee data for fees approved during the reporting period to capture value (A) (numerator), divided by the number of claims with approved attorney fee charges, during the report period (denominator). The calculation excludes cases where fees were approved but no proceedings related charges were filed or approved. Also excludes proceeding related charges if the proceeding was held regarding the issue of attorney fees.
Data Limitations	We do not know the costs actually paid as these figures are not reported to the Division, but we can determine the average cost charged per represented case. This methodology is actually calculating (estimating) the average indemnity benefits paid to attorneys. It is assumed this is the average cost avoided by injured employees accepting ombudsman assistance.
Calculation Type	Non-Cumulative
New Measure	Yes
Desired Performance	Higher than Target

OUTPUT MEASURES

Measure Number: 1.1.1 OP1

Title	Number of Rulemaking Processes (informal and formal) in Which OIEC Participated
Short Definition	The total number of rulemaking processes in which the agency participated during the reporting period. Participation in rulemaking processes includes informal and formal projects regarding rule changes proposed by the Texas Department of Insurance, the Division of Workers' Compensation, the Office of Injured Employee

	Counsel, or other workers' compensation system participants to provide the viewpoint as to how such proposed rules or processes would affect a class or a substantial number of injured employees.
Purpose/Importance	This measure addresses the agency's statutory duty to intervene on behalf of injured employees as a class in all workers' compensation matters involving rules, forms, or processes.
Source/Collection	An agency database is maintained and utilized to track rule projects and processes for the agency. Agency staff enters information on a regular basis. Data is collected from various sources, including the Texas Register.
Method of Calculation	Sum the number of rules proposed formally or informally during the reporting period in which OIEC participated to capture total (A). Submit (A) represented as a whole number.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher Than Target

Measure Number: 1.1.1 OP2

Title	Number of Rulemaking Processes (informal and formal) in Which OIEC Participated
Short Definition	The total number of rulemaking processes in which the agency participated during the reporting period. Participation in rulemaking processes includes informal and formal projects regarding rule changes proposed by the Texas Department of Insurance, the Division of Workers' Compensation, the Office of Injured Employee Counsel, or other workers' compensation system participants to provide the viewpoint as to how such proposed rules or processes would affect a class or a substantial number of injured employees.
Purpose/Importance	This measure addresses the agency's statutory duty to intervene on behalf of injured employees as a class in all workers' compensation matters involving rules, forms, or processes.
Source/Collection	An agency database is maintained and utilized to track rule projects and processes for the agency. Agency staff enters information on a regular basis. Data is collected from various sources, including the Texas Register.
Method of Calculation	Sum the number of rules proposed formally or informally during the reporting period in which OIEC participated to capture total (A). Submit (A) represented as a whole number.
Data Limitations	None
Calculation Type	Non-Cumulative percentage
New Measure	Yes
Desired Performance	Higher Than Target

Measure Number: 1.1.1 OP2

Title	Number of Rules Analyzed by OIEC (informal and formal).
Short Definition	The total number of proposed rules analyzed by the agency during the reporting period. Analyzed rules include informal and formal proposals for rule changes filed by the Texas Department of Insurance, the Division of Workers' Compensation, the Office of Injured Employee Counsel, or other workers' compensation system participants which are reviewed to determine if they affect, or have the potential to affect, a class or a substantial number of injured

	employees.
Purpose/Importance	This measure addresses the agency's statutory duty to intervene on behalf of injured employees as a class in all workers' compensation matters involving rules, forms, or processes.
Source/Collection	An agency database is maintained and utilized to track rule projects and processes for the agency. Agency staff enters information on a regular basis.
Method of Calculation	Sum the total number of rules worked informally or proposed formally by either DWC or OIEC during the reporting period that are analyzed by OIEC to capture Total (A). Submit (A) represented as a whole number.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 1.1.1 OP3

Title	Number of Data Analysis Projects performed by OIEC for Inclusion in its Legislative Report
Short Definition	The total number of data analysis and/or special projects performed by the agency during the reporting period for inclusion in its statutorily required Legislative Report. Data analysis or special projects performed by OIEC include all analysis projects that are conducted for inclusion of information into the agency's Legislative Report and those conducted internally to improve OIEC programs and performance.
Purpose/Importance	This measure addresses the agency's statutory duty to monitor the workers' compensation system and its affects on injured employees.
Source/Collection	An agency database is maintained and utilized to track data analysis and special projects for the agency. Agency staff enters information on a regular basis.
Method of Calculation	Sum the number of workers' compensation related data analysis of projects performed by OIEC during the reporting period to capture total (A). Submit (A) represented as a whole number.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 2.1.1 OP1

Title	Number of Injured Employees Educated Regarding their Rights and Responsibilities
Short Definition	The total number of injured employees reached by agency education efforts during the reporting period. Injured employees reached through OIEC education efforts include those employees who received their Rights & Responsibilities packet from OIEC when their claim was created by the Division of Workers' Compensation or reported through other means.
Purpose/Importance	This measure addresses the agency's statutory duty to educate and assist injured employees.
Source/Collection	Database of claims established by the Division is maintained by the Division of Workers' Compensation and includes claims reported to the Division by the injured employee or insurance carrier on behalf of

	the employer. Data may include only those claims required to be reported to the Division (lost time of one day or greater).
Method of Calculation	Track the total number of employees during the reporting period educated regarding their rights and responsibilities by capturing the total mailed Rights & Responsibilities Education Packets and then subtract the total number of packets returned to sender to capture total (A). Submit (A) represented as a whole number.
Data Limitations	The system maintained by TDI/DWC creates claims received wither via carrier EDI reporting or injured employee paper or online filings. When a new claim is established a packet of information is generated to the injured employee containing their Rights & Responsibilities. The "letter mailed" date is used in TXCOMP to confirm that this communication went out. OIEC receives all returned mail for these packets and will track the items returned. A specific code is entered on the claim file for these returns and the sum of the number of times that code is used will be the mechanism to determine how many packets were returned in order to subtract that from the total. Additionally, the packet on goes out on claims reported to DWC. Many w/c claims are not reported to DWC or do not generate one of these packets and therefore would not be represented in the total number of these packets mailed.
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 2.1.1. OP2

Title	Number of Injured Employees Assisted by Telephone.
Short Definition	The total number of injured employees assisted by telephone calls to the OIEC during the reporting period, including calls received on the OIEC toll free number or calls received on any other phone line that are subsequently transferred to OIEC staff.
Purpose/Importance	This measure addresses the agency's statutory duty to assist injured employees.
Source/Collection	An agency claim system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to document all phone contacts with OIEC or DWC staff. Special code values are assigned to OIEC to log their calls separately from those handled by the Division. Phone calls received on the OIEC toll free number are logged through the agency's telecommunication system which is maintained by the Texas Department of Insurance.
Method of Calculation	Track the total number of injured employees during the reporting period assisted via telephone by OIEC staff by using OIEC specific contact codes in the agency's claim system (OGT) to capture total (A). Submit (A) represented as a whole number.
Data Limitations	Staff may not always remember to make an entry to it is possible that this number can be lower than that which actually occurred.
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 2.1.1 OP3

Title	Number of Injured Employees Assisted at Field Office Locations.
Short Definition	The total number of injured employees assisted in person (walk-in) who visit a local field office or the Central Office and request to speak to an OIEC employee during the reporting period.

Purpose/Importance	This measure addresses the agency's statutory duty to assist injured employees.
Source/Collection	An agency claim system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to document all assistance provided to a walk-in customer by OIEC or DWC staff. Special code values are assigned to OIEC staff to log their "in person" assistance separately from those handled by the Division (OWI).
Method of Calculation	Track the total number of injured employees during the reporting period assisted in person at a local field office or the Central_Office location but who are not currently being assisted by an Ombudsman in the dispute resolution process at the time of their visit to capture total (A). Submit (A) represented as a whole number.
Data Limitations	Staff may not always remember to make an entry to it is possible that this number can be lower than that which actually occurred.
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 2.1.1 OP4

Title	Number of Public Presentations Performed by OIEC.
Short Definition	The total number of presentations, workshops, seminars, speaking engagements, or other forums during the reporting period where OIEC staff speak to a group or groups of system stakeholders regarding OIEC, its role, and how OIEC helps ensure a balanced workers' compensation system.
Purpose/Importance	This measure addresses the agency's statutory duty to inform employees, employers, and other system stakeholders regarding the role of OIEC and ensuring a balanced system.
Source/Collection	An agency database is maintained and utilized to track all speaking engagements for the agency. Agency staff enters information on a regular basis.
Method of Calculation	Sum the number of public outreach sessions or seminars conducted by OIEC staff during the reporting period regarding the role of OIEC to capture (A). Submit (A) represented as a whole number.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 2.1.2 OP1

Title	Number of Injured Employees Referred to the Department of Assistive and Rehabilitative Services.
Short Definition	The number of referrals made by OIEC employees to DARS to assist injured employees with rehabilitation or retraining needed to return to work.
Purpose/Importance	This measure addresses the agency's statutory duty to refer injured employees to other services that can assist them, particularly with returning to work.
Source/Collection	An agency claim system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to document all referrals made by OIEC staff. Special code values are assigned to OIEC staff to use for particular types of referrals and DARS referrals are given a unique code within the system to track this measure (ODS).

Method of Calculation	Sum the number of referrals made to DARS during the reporting period using a specific code to separate these calls and referrals (and letters) from other calls and referrals (and letters) to obtain (A). Submit (A) as a whole number. The calculation excludes multiple OIEC referrals for the same injured employee on the same claim counting ODS entries once per claim.
Data Limitations	At this time there is no way to separate referrals letters generated by OIEC staff versus TDI/DWC staff. Staff are requested to use the unique DARS contact code when they generate a letter so that the code value is used exclusively to track all referrals whether by phone or letter. Even though OIEC will only count these referrals once per claim, the employee may also be referred to DARS by the DWC and these numbers would not be knowingly included or excluded from OIEC's submission.
Calculation Type	Non-Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 2.1.2. OP2

Title	Number of Injured Employees Referred to TWC or Other Programs.
Short Definition	The number of referrals made by OIEC employees to TWC or other programs and entities to assist injured employees with finding employment, retraining opportunities, and return to work during the reporting period.
Purpose/Importance	This measure addresses the agency's statutory duty to refer injured employees to other services that can assist them, particularly with returning to work.
Source/Collection	An agency claim system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to document all referrals made by OIEC staff. Special code values are assigned to OIEC staff to use for particular types of referrals and TWC referrals are given a unique code within the system to track this measure (OTW) and (ORS).
Method of Calculation	Sum the number of referrals made to TWC or other agencies during the reporting period using a specific code to separate these referrals from DARS referrals to obtain (A). Submit (A) as a whole number. The calculation excludes multiple OIEC referrals for the same injured employee on the same claim counting ORS and OTW entries once per claim. If a claim had both types of referrals made, it would be counted only once.
Data Limitations	Even though OIEC will only count these referrals once per claim, the employee may also be referred to DARS by the DWC and these numbers would not be knowingly included or excluded from OIEC's submission.
Calculation Type	Non-Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 3.1.1. OP1

Title	Number of Injured Employees Prepared for a Benefit Review Conference (BRC) by an Ombudsman
Short Definition	The total number of injured employees prepared for a benefit review conference by an agency ombudsman during the reporting period. Ombudsman attempt to meet prior to a Benefit Review Conference with each injured employee they are scheduled to assist to ensure

	they are prepared for the Conference.
Purpose/Importance	This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman program prior to and during Benefit Review Conferences, Contested Case Hearings, or Appeals.
Source/Collection	An agency claim & dispute system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding preparation information. Information is data entered by OIEC staff.
Method of Calculation	Sum the total number of BRC preps conducted during the reporting period to capture (A). Submit (A) as a whole number. The calculation excludes counting more than one prep per dispute ID and sequence number to capture (A). Preparation time spent by the Ombudsman without the injured employee present is not counted in this measure.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 3.1.1. OP2

Title	Number of Benefit Review Conferences (BRC) with Ombudsman Assistance.
Short Definition	The total number of Benefit Review Conferences that occurred during the report period where the unrepresented injured employee was assisted by an Ombudsman.
Purpose/Importance	This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman program prior to and during Benefit Review Conferences, Contested Case Hearings, or Appeals.
Source/Collection	An agency claim & dispute system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding attendance information. Information is data entered by Division staff.
Method of Calculation	Sum the total number of BRCs during the reporting period where the injured employee was assisted by an Ombudsman, counting every BRC attended regardless of dispute ID and sequence number to capture (A). Submit (A) as a whole number.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Target or Higher

Measure Number: 3.1.1. OP3

Title	Number of Injured Employees Prepared for a Contested Case Hearing (CCH) by an Ombudsman
Short Definition	The total number of injured employees prepared for a Contested Case Hearing by an agency ombudsman during the reporting period. Ombudsman attempt to meet prior to a Contested Case Hearing with each injured employee they are scheduled to assist to ensure they are prepared for the hearing.
Purpose/Importance	This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman program prior to and during Benefit Review Conferences, Contested Case Hearings, or Appeals.

Source/Collection	An agency claim & dispute system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding preparation information. Information is data entered by OIEC staff.
Method of Calculation	Sum the total number of CCH preps conducted during the reporting period to capture (A). Submit (A) as a whole number. The calculation excludes counting more than one prep per dispute ID and sequence number to capture (A). Preparation time spent by the Ombudsman without the injured employee present is not counted in this measure.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 3.1.1. OP4

Title	Number of Contested Case Hearings (CCH) with Ombudsman Assistance.
Short Definition	The total number of documented Ombudsman attendance at Contested Case Hearings with unrepresented injured employees during the reporting period.
Purpose/Importance	This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman program prior to and during Benefit Review Conferences, Contested Case Hearings, or Appeals.
Source/Collection	An agency claim & dispute system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding attendance information. Information is data entered by Division staff.
Method of Calculation	Sum the total number of CCHs during the reporting period where the injured employee was assisted by an Ombudsman, counting every CCH attended regardless of dispute ID and sequence number to capture (A). Submit (A) as a whole number.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 3.1.1. OP5

Title	Number of Injured Employees Prepared for an Appeal by an Ombudsman
Short Definition	The total number of injured employees prepared by an agency ombudsman for an appeal proceeding before the Division of Workers' Compensation during the reporting period. Ombudsman meet prior to the deadline for filing an appeal with each unrepresented injured employee involved in an Appeal.
Purpose/Importance	This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman program prior to and during Benefit Review Conferences, Contested Case Hearings, or Appeals.
Source/Collection	An agency claim & dispute system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding preparation information. Information is data entered by OIEC staff.
Method of Calculation	Sum the total number of Appeal preps conducted during the reporting period to capture (A). Submit (A) as a whole number. The calculation

	excludes counting more than one prep per dispute ID and sequence number to capture (A). Preparation time spent by the Ombudsman without the injured employee present is not counted in this measure.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Higher than Target

EFFICIENCY MEASURES

Measure Number: 2.1.1 EF1

Title	Average Time from Date of Injury to the Date an Injured Employee is Sent Their Rights and Responsibilities.
Short Definition	Days lapsed between the date an injured employee is injured and the date on which they are notified of their Rights & Responsibilities.
Purpose/Importance	This measure addresses the agency's statutory duty to educate injured employees regarding their rights and responsibilities. The earlier in the life of the claim that an injured employee becomes aware of their rights and responsibilities the greater the chances are for that employee to have a greater understanding of the system.
Source/Collection	An agency claim system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the injured employee's date of injury and the mailed date for the employee's Rights & Responsibilities packet. The mailed date is system generated at the time the letter is generated. The date of injury is either supplied by the injured employee online, the carrier via EDI, or through manual data entry by Division staff.
Method of Calculation	The total number of calendar days that elapsed from the date of injury reported for all claims established during the reporting period (using the date of injury field in the claim system) and the date the Rights & Responsibilities were sent to the injured employee to by OIEC- (numerator), divided by the number of Rights & Responsibilities packets mailed (denominator). The calculation excludes claims where the packet was returned via returned mail.
Data Limitations	The Division only creates claims on lost time claims so the packets are only generated for the claims established by DWC and would not represent all w/c claims reported to carriers in Texas. There are time delays in the process between the date the employee reports the injury to their employer, the date the employer reports it to the carrier, and the date the carrier reports the injury to DWC. All of these delays will factor into the resulting average in this measure.
Calculation Type	Non-Cumulative
New Measure	Yes
Desired Performance	Higher than Target

Measure Number: 3.1.1 EF1

Title	Average Time from the Date a BRC is Scheduled to the Date of First Injured Employee Contact with an Ombudsman.
Short Definition	Average days lapsed between the time a BRC is scheduled and the date an injured employee first meets with an Ombudsman.
Purpose/Importance	This measure addresses the agency's duty to effectively assist unrepresented injured employees. By meeting with the injured employee shortly after the proceeding is scheduled, the injured

	employee has more time to prepare for the upcoming proceeding, become educated about the process and issues with the case, and potentially resolve the dispute prior to the proceeding.
Source/Collection	An agency claim system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to document the date a BRC is scheduled and the date a preparation appointment is conducted. Dates are system generated based on actions taken in the system when a proceeding is set and staff data enter when a prep occurs.
Method of Calculation	The total number of calendar days per BRC schedule when the injured employee will be assisted by an Ombudsman during the reporting period that elapsed from the notice of the BRC to the Ombudsman to the date on which the injured employee first met with the Ombudsman (numerator), divided by the number of BRC cases scheduled for Ombudsman assistance during the report period (denominator). Represented as a whole number.
Data Limitations	None
Calculation Type	Non-Cumulative
New Measure	Yes
Desired Performance	Lower than Target

Measure Number: 3.1.1 EF2

Title	Average Time from the Date a CCH is Scheduled to First Injured Employee Contact with an Ombudsman.
Short Definition	Days lapsed between the time a CCH is scheduled and an injured employee first meets with an Ombudsman.
Purpose/Importance	This measure addresses the agency's duty to effectively assist unrepresented injured employees. By meeting with the employee shortly after the proceeding is scheduled, the injured employee has more time to prepare for the upcoming proceeding, become educated about the process and issues with the case, and potentially resolve the dispute prior to the proceeding.
Source/Collection	An agency claim system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to document the date a CCH is scheduled and the date a preparation appointment is conducted. Dates are system generated based on actions taken in the system when a proceeding is set and staff data enter when a prep occurs.
Method of Calculation	The total number of calendar days per CCH scheduled when the injured employee will be assisted by an Ombudsman during the reporting period that elapsed from the notice of the CCH to the Ombudsman to the date on which the injured employee first met with the Ombudsman (numerator), divided by the number of CCH cases scheduled for Ombudsman assistance during the report period (denominator). Represented as a whole number.
Data Limitations	None
Calculation Type	Non-Cumulative
New Measure	Yes
Desired Performance	Lower than Target

EXPLANATORY MEASURES

Measure Number: 2.1.2. EX1

Title	Number of Health Care Provider Complaints Received.
Short Definition	The total number of complaints reported by injured employees who contact OIEC for assistance or information in filing a complaint about their doctor or other healthcare provider with the appropriate licensing board during the reporting period.
Purpose/Importance	This measure addresses the agency's statutory duty to assist injured employees with filing complaints with appropriate licensing boards regarding a doctor or healthcare provider.
Source/Collection	An agency claim system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to document all doctor complaints received by OIEC staff. Special code values are assigned to OIEC staff to use for particular types of referrals to track this measure.
Method of Calculation	Sum the number of complaints received by OIEC staff regarding health care providers during the reporting period using a specific code to separate these issues from other calls or complaints (ODR) to collect (A). Submit (A) as a whole number.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Lower than Target

Measure Number: 3.1.1. EX1

Title	Number of Workers' Compensation Health Care Network Complaints Received.
Short Definition	The total number of complaints or disputes involving a workers' compensation healthcare network reported to OIEC by injured employees during the reporting period, including any disputed subject or issue whereby the injured employee raised the issue to the network and was not satisfied with the resolution or outcome of the issue.
Purpose/Importance	This measure addresses the agency's statutory duty to assist all unrepresented injured employees through the dispute resolution processes, regardless of the network status of the claim and assist the agency in understanding the systemic issues within the system so that OIEC may better represent injured employees as a class. This measure also addresses the agency's statutory duty to monitor the workers' compensation system and its impact on injured employees and to report findings to the Legislature.
Source/Collection	An agency claim system database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to document all reported network disputes received by OIEC staff. Special code values are assigned to OIEC staff to use for particular types of contacts (OND).
Method of Calculation	Sum the total number of complaints received during the reporting period by OIEC where an injured employee reports having a dispute being handled by a healthcare network to capture (A). Submit (A) as a whole number.
Data Limitations	None
Calculation Type	Cumulative
New Measure	Yes
Desired Performance	Lower than Target

E. Workforce Plan

*Office of Injured Employee Counsel
Fiscal Years 2007-2011 Workforce Plan*

Agency Overview

The Office of Injured Employee Counsel (Office) was established on, March 1, 2006, as part of a broad legislative effort to reform the state's workers' compensation system. The statutory authority, general duties, and powers for the Office are described in Chapter 404 of the Texas Labor Code. The Texas Workers' Compensation Commission (Commission) underwent sunset review in 2005, The 79th Texas Legislature, Regular Session adopted the Sunset Advisory Commission recommendation to abolish the former Commission, transfer its functions to the newly created Division of Workers' Compensation within the Texas Department of Insurance, and create the Office of Injured Employee Counsel.

The OIEC's primary responsibilities are to:

- ❖ Provide injured employees with information about their rights and responsibilities;
- ❖ Act as an advocate on behalf of injured employees as a class regarding rulemaking by Texas Department of Insurance and Division of Workers' Compensation relating to workers compensation;
- ❖ Assign staff attorneys to advise ombudsman in providing assistance to Injured employees in preparing for formal and informal hearings;
- ❖ Assist injured employees thru the ombudsman program in the informal and formal administrative dispute resolution system;
- ❖ Ensure compliance with the Texas Workers Compensation Act; workers' compensation rules, case law, and appeals panel decisions;
- ❖ Provide a strong communications and outreach program that educates injured employees about the workers' compensation system;
- ❖ Assist injured employees with contacting appropriate licensing boards for complaint against a health care provider;
- ❖ Assist injured employees with referral to local, state, and federal financial assistance, rehabilitation, and work placement programs, as well as other social services that the office considers appropriate;
- ❖ Assess the impact of workers' compensation laws, rules, procedures, and forms on injured employees and monitor return to work in the system;
- ❖ Assist injured employees, through the ombudsman program, to resolve complaints and issues through the Texas Department of Insurance, Division of Workers' Compensation dispute resolution system;
- ❖ Coordinate service provided by ombudsman program service provided by Department of Assistive Rehabilitative Services;
- ❖ Administer and support the Ombudsman Program and provide education and training guidelines for ombudsmen;
- ❖ Promulgate rules as needed to administer and enforce activities as described in Chapter 404 of the Labor Code.

Organizational Structure

The organizational chart shown in Appendix B of OIEC's *FY 2007-2011 Agency Strategic Plan* demonstrates how OIEC is organized to fulfill its charge. The chart below denotes how the agency's funds were appropriated for the FY06-07 biennium.

Item	FY06	FY07
Salaries and Wages	\$4,387,525.00	\$4,387,525.00
Other Personnel Costs	\$72,980.00	\$80,700.00
Consumable Supplies	\$47,414.00	\$47,414.00
Travel	\$87,905.00	\$87,905.00
Other Operating	\$130,489.00	\$129,143.00
Total:	\$4,726,313.00	\$4,732,687.00
Max No. Full-time Positions Allocated	122.0	122.0

OIEC is allocated an FTE cap of 122 positions, but is currently staffed at approximately 110 FTEs. The majority of the employees are located in the field office locations, including ombudsman, ombudsman assistants, regional attorneys, senior ombudsman, traveling supervisors and managers who provide support to all remote service locations. This allows the agency to better meet the statewide needs of the injured workers and other system participants.

Staffing Pattern for Strategic Goals

In accordance with the agency's statutory requirements, the Office works toward accomplishing three primary goals. Each goal has objective(s) and strategies that help it accomplish its goals. The goals, objectives, and strategies are described in detail in the *FY 2007-2011 Agency Strategic Plan*. The outline below presents each approved goal and strategy and reflects the appropriate staffing level (FTEs) the Office has allocated across its strategies to support its goals.

Goal 1: To advocate effectively on behalf of injured employees participating in the Texas workers' compensation system in rulemaking or other public forums involving workers' compensation matters.

Strategy 1.1.1. To actively participate in the workers' compensation rulemaking process regarding the Texas workers' compensation system on behalf of injured employees. To provide information, research assistance, and testimony to the Legislature and Executive Branch including testimony regarding ad hoc reports, special research, or analytical projects for current workers' compensation issues or trends impacting injured employees participating in the workers' compensation system.

Program Areas:

Central Administration – 6 FTEs

Analyzes data regarding workers' compensation processes and develops reports, including the OIEC Legislative Report

Performs agency administrative duties and policy development work to include coordination with TDI regarding all agency administrative functions and development of required agency programs, procedures and training.

Legal Services – 2 FTEs

Drafts rules and provides rule comments and participates in workgroups in workers' compensation matters relating to protecting injured employees as a class

Goal 2: To increase effective injured employee education regarding their rights and responsibilities within the Texas workers' compensation system, provide injured employees with referrals to other state agencies or services available to assist them, to assist injured employees with filing complaints regarding healthcare providers, and to educate all system participants regarding the role of OIEC.

Strategy: 2.1.1 To contact injured employees regarding their rights and responsibilities and regarding their insight and experience on the workers' compensation system and to assist injured employees who contact OIEC regarding their rights and responsibilities. To educate all system participants regarding the role of OIEC to ensure a balanced system.

Strategy: 2.1.2 To refer injured employees to local, state, and federal programs offering financial assistance, rehabilitation, and work placement programs, or other social services. To assist injured employees with filing complaints to the licensing boards regarding healthcare providers.

Injured Employee Services – 30.25 FTEs

Review complaints and refer complaints to Legal & Compliance when appropriate or to other licensing or governing authorities

Refer fraud to Legal and Compliance which will refer the activity to the Fraud Unit for investigation

Refer injured employees to social services, including DARS and TWC, to assist injured employees with hardships and returning to work

Assist injured employees with general information and pre-proceedings resolution of disputes in order to assist them in navigating through the workers' compensation system

Central Administration – 1.25 FTEs

Conduct Public Outreach seminars and public speaking engagements to educate system participants regarding the role of OIEC and its services

Goal 3: To assist injured employees participating in the Texas workers' compensation system through the Ombudsman Program and throughout the workers' compensation dispute resolution process.

Strategy 3.1.1 Prepare injured employees for Benefit Review Conferences and Contested Case Hearing proceedings and attend proceedings with injured employees as requested. Prepare injured employees for appeals and assist them with resolving disputes.

Injured Employee Services – 65.75 FTEs

Assist unrepresented injured employees in preparing for proceedings before the Division, to include Benefit Review Conferences, Contested Case Hearings, and Appeals

Attend proceedings with unrepresented injured employees before the Division and assist the injured employee in presenting their case

Support Ombudsman Program through performance of administrative duties

Legal Services – 6.75 FTEs

Provide research and case development support to the Ombudsman Program

Anticipated Changes in Customer Demands and Strategies

Since injured employees are among the Office's primary service population, the population and workforce growth experienced in Texas has affected the number of individuals who can potentially require or request services from the Office. Although additional attention and priority has been given to controlling medical costs in the workers' compensation system, the Office's overarching goals and strategies are not anticipated to change dramatically for the foreseeable future. However, the increasing size of the state's workforce and changing customer expectations will certainly require adjustments to how services are provided.

Population Trends

- ❖ 3.8 million new Texas residents since 1990
- ❖ 2.3 million (60%) were Hispanic
- ❖ Hispanics are the largest demographic group in the State
- ❖ Rapid growth of older population in coming years will lead to a more seasoned workforce but one that may have longer recovery times when injured
- ❖ Almost one-quarter of the state's population does not currently have a high school education
- ❖ Percentage of Texas residents living below the poverty level continues to rise

Economic Variables

- ❖ Shift in industry concentration from higher hazard to lower hazard industries and occupations
- ❖ Growth in technology and health care occupations may lead to increased rates of repetitive motion and lifting injuries and illnesses
- ❖ Rising cost of health care provided in the workers' compensation system has required the OIEC and system participants to develop and perform new functions

Customer Demands.

- ❖ Rising public expectations for all types of access to information, especially through the use of websites
- ❖ Increased need to provide services in several formats, for example in other languages and/or in formats that do not require reading proficiency

CURRENT WORKFORCE PROFILE

Workforce Demographics

Currently, the Office is authorized to have 122 full-time equivalents (FTEs) positions and is funded to support 113 at this time. Approximately **15%** percent of the staff is located in the agency's central office located in Austin, and the other **85%** percent is located in field offices throughout the state. New provisions of House Bill 7, as well as customer growth, have increased workload and indicate that more than recently achieved staffing levels are needed to accomplish the agency's goals and legislative mandates. Additionally, due to the fact that other agencies can pay higher salaries for the some of the same responsibilities and skill sets, the Office needs to upgrade the salary level of a substantial number of key employees. Thus, a thorough analysis of the staffing and associated funding needed to address the workload demands of the agency will be incorporated into the agency's Legislative Appropriations Request for FY 2008-2009.

The charts below profile the agency's workforce as of third quarter FY2006 and include both full-time and part-time employees. The OIEC's workforce is comprised of **84.38%** females and **15.62%** males. Over **77%** of our employees are over the age of 40. More than **20%** percent of employees have less than six years agency service.

Age

Under 30 years	3%
30 - 39 yrs	18%
40 - 49 yrs	44%
50 - 59 yrs	26%
60 yrs and over	9%

Tenure

1 - 3 years	19%
4 - 6 years	6%
7 - 9 years	18%
10-12 years	15%
13-15 years	21%
16-18 years	10%
19-24 years	6%
25-27 years	4%
28-36 years	0%

Source: Texas Department of Insurance Human Resources Division

The following table compares the percentage of African American, Hispanic, and Female Office employees (as of 3rd Quarter FY2006) to the statewide civilian workforce as reported by the Texas Commission on Human Rights. The OIEC's workforce is ethnically and culturally diverse and closely mirrors the state civilian workforce in most Equal Employment Opportunity job categories.

EEO category	Total	Black		Hispanic		Other		Female		Non-minority	
OFFICIALS AND ADMIN.	3	0	0.00%	2	66.67%	0	0.00%	2	66.67%	1	33.33%
PROFESSIONALS	65	10	15.38%	26	40.00%	0	0.00%	51	78.46%	29	44.62%
TECHNICIANS	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
PARA PROFESSIONALS	28	3	10.71%	15	53.57%	1	3.57%	28	100.00%	9	32.14%
ADMINISTRATIVE SUPP.	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
SERVICE MAINTENANCE	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
SKILLED CRAFT WORKER	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
PROTECTIVE SERVICES	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
UNKNOWN	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
TOTAL	96	13	13.54%	43	44.79%	1	1.04%	81	84.38%	39	40.63%

Source: Texas Department of Insurance Human Resources Division

Employee Turnover and Retirement

Employee turnover is a critical issue in any organization, and the Office of Injured Employee Counsel is no exception. The agency has not experienced any substantial turnover with a quarterly turnover rate of **3.26%**.

Based on data provided by the Employee Retirement System to the State Classification Office of the State Auditor's Office, during the current fiscal year (FY 2006), the Office of Injured Employee Counsel will have approximately **12** individuals who will be eligible to retire. During the next two biennia (FY08-09 and FY10-11), the agency projects that **11** more individuals will become eligible for retirement. At least **4%** percent of the employees eligible to retire within the next few years serve in key management positions or the Office's current executive management team and have a wealth of workers' compensation and state experience.

Source: Texas Department of Insurance Human Resources Division

Critical Workforce Skills

The agency has many professional, skilled, and well-qualified employees. Maintaining a workforce with particular knowledge and skill sets is critical to the agency's ability to operate efficiently. Some of these skills are as follows:

- ❖ Providing appropriate customer service;
- ❖ Interpreting legal/regulatory statutes;
- ❖ Legal and workers' compensation research and analysis;
- ❖ Managing and providing leadership to staff

FUTURE WORKFORCE PROFILE (DEMAND ANALYSIS)

Expected OIEC Workforce Changes

The Office does not foresee the elimination of any of its responsibilities over the next five-year period or a significant change in the number of staff available to perform those functions. However, there are several new programs being developed as a result of House Bill 7, passed by the 79th Legislature, and increased demand for some services will require developing more efficient service delivery options.

The Office has identified the following organizational changes that will result from environmental demand changes:

- ❖ Increased use of data analysis to conduct business;
- ❖ Increased efforts to cross-train employees as a component of staff development and as a means for mitigating the agency's vulnerability resulting from turnover and the loss of staff due to retirement

Future Workforce Skills Needed

To successfully address the expected workforce changes, in addition to retaining staff with the skills currently needed, it will be essential for the Office to train staff and attract employees with the following skills:

- ❖ Managerial/supervisory skills such as: performance management of staff and of key OIEC functions; budgeting; team building; and effective communications;
- ❖ Managing change;
- ❖ Process analysis, development, and implementation;
- ❖ Project management;
- ❖ Strategic planning, management, and communication; and
- ❖ Use, maintenance, and training on new technologies (e.g., videoconferencing and interactive web applications).

GAP ANALYSIS

- ❖ After analyzing the current and future workforce information, the Office has determined the following present limitations on the OIEC's ability to meet future customer demands:
- ❖ OIEC could lose almost 20% of its workforce due to retirements over the next six years. The loss of these individuals would mean a significant loss of experience in the operations of the Office, knowledge critical to customer service, and knowledge of the Texas workers' compensation system.

- ❖ Additional customer service functions requiring technical skills and/or subject matter knowledge will be provided either through direct contact or through new technologies. Those functions will replace most of the data entry functions currently performed.
- ❖ OIEC needs to provide development opportunities for employees with technical expertise to acquire general management skills.
- ❖ Workforce processes and tools will change significantly in the next five years, necessitating providing change management training and tools to all employees.
- ❖ OIEC expertise and experience with producing web-based applications or similar mechanisms that enable the public to interact with the OIEC electronically is currently limited, while demands from the public and stakeholders to increase these applications continues to rise.

STRATEGY DEVELOPMENT & GAP ANALYSIS

In order to address the anticipated shortages between the current workforce and future demands, the Office of Injured Employee Counsel has developed goals and strategies to address each of the identified gaps between the current and future.

GAP 1: OIEC could lose almost 10% of its workforce due to retirement over the next four years

Goal: Develop and implement a succession planning program

Strategy: Develop mechanisms to ensure that knowledge is retained by promoting the transfer of knowledge as an agency strategic value

Strategy: Implement mentoring programs to match potential leaders with individuals possessing those critical skill sets

GAP 2: OIEC needs to provide development opportunities for employees with technical expertise to acquire general management skills

Goal: Develop and promote staff into managerial positions

Strategy: Expand managerial/supervisory training to include issues such as change management, effective leadership, financial management, coaching, performance management, project management, communication, and problem resolution

Strategy: Develop career pathways (career ladders), job transfer strategies, and cross-training opportunities that facilitate the career growth of high-performing staff

GAP 3: Change management training and tools need to be developed and provided to all employees

Goal: Address changes in organization structure and responsibilities for targeted employee positions in the agency

Strategy: Provide supervisors and managers with the information and training necessary to enable them to effectively manage their staff, especially during times of change

Strategy: Develop and make available to all staff the mechanisms to resolve stress caused by change

Strategy: Develop training strategies to improve bilingual services to customers

Conclusion

In addition to striving to accomplish the goals and strategies specified to address gaps identified in this plan, the Office will develop methodologies for the continual identification and quantification of gaps between existing and needed skill sets.

The agency was created on March 1, 2006 therefore this Workforce Plan was developed with only a limited amount of data.

Development of the agency's human resources to meet the continually changing external demands on the organization is essential for the agency to successfully fulfill its mission.

Elements Not Included in This Strategic Plan:

The Office of Injured Employee Counsel's Strategic Plan does not include the following elements:

- (1) **Survey of Organizational Excellence**
The agency was created on March 1, 2006, four months before the due date for the Strategic Plan. Therefore, a Survey of Organizational Excellence has not been performed by the Office but is planned for the FY08-09 biennium and will be submitted with the next Strategic Plan for the Office due July 2008.
- (2) **Customer Service Survey**
The agency was created on March 1, 2006, four months before the due date for the Strategic Plan. Therefore, a Customer Service Survey has not been performed by the Office but is planned for the FY08-09 biennium and will be submitted with the next Strategic Plan for the Office due July 2008.
- (3) **Historically Underutilized Business Plan**
Due to the Office's administrative attachment to the Texas Department of Insurance (Texas Labor Code Section 404.002), all purchases are awarded and maintained by the Department. Any contracts or awards related to the Office would be credited to and reported by the Department.
- (4) **Information Resources Strategic Plan**
Due to the Office's administrative attachment to the Texas Department of Insurance (Texas Labor Code Section 404.002), all information resources planning and reporting requirements are performed by the Department. The Information Resources Strategic Plan that will encompass plans for the Office's Information resources will be submitted by the Department.