



# **Agency Business Plan Fiscal Years 2008-2009**

## **The Office of Injured Employee Counsel**

*Norman Darwin, Public Counsel*

**FY 2008 – 4<sup>th</sup> Quarter**

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**Office of Injured Employee Counsel  
Agency Business Plan  
Fiscal Years 2008-2009**

**Introduction**

**What is an agency business plan?**

An agency business plan provides an operational road map for achieving agency goals, consistent with its enabling statute, mission, strategic planning goals, and strategies. An effective business plan describes in specific terms who is responsible, what actions will be taken, within what time frame, and how the agency will know when it has accomplished the items in its plan. The plan is an accountability and coordination tool to keep all employees focused on the most important activities in order to fulfill the organization's mission effectively and efficiently.

The plan that follows has three sections:

- 1) The executive vision and direction of OIEC's Public Counsel
- 2) The agency business plan including program-by-program operational goals and objectives.
- 3) An appendix containing the history of OIEC since its inception and the agency's Strategic Planning Goals, Strategies, and Performance Measures that guide the development of the agency business plan.

**How will the plan be used?**

Each Program of OIEC will use the business plan as a road map for achieving goals and a tool for keeping its resources focused on the most critical mission-oriented agency tasks. A document for centrally tracking the status of the plan will be developed and updated quarterly. The plan will be amended as appropriate to reflect changing needs and priorities. The plan can be used by all employees to help them understand how they fit into the overall operations of their agency and how their contributions translate into organizational success.

In the next section of this business plan, the OIEC Public Counsel, Norman Darwin, sets out his leadership vision and direction. This section, along with the agency enabling statute, strategic planning goals, and performance measures, provides direction and context for OIEC supervisors and employees in development of their business plans.

## **PART I: Executive Values, Vision, and Direction**

### **Norman Darwin, OIEC Public Counsel**

In 2005, the Texas Legislature established the Office of Injured Employee Counsel (OIEC) to assist, educate, and advocate on behalf of the injured employees of Texas. The creation of this new agency, followed by additional legislation in 2007, brought many changes in the way injured employees may receive services. These changes require flexibility and creativity on the part of OIEC employees and others working in the workers' compensation system. As a new agency with new resources, OIEC has a unique opportunity to rethink the way we serve injured employees. As we move through the 2008-2009 biennium, OIEC must concentrate on the following critical initiatives:

#### ***Provide One-Stop Customer Service to Injured Employees***

OIEC must work to fulfill the concept of a one-stop system of providing services to its customers. Whereas OIEC was once funded only to serve unrepresented injured employees who were involved in a proceeding with a workers' compensation carrier, OIEC is now required to provide information and education to any unrepresented injured employee who seeks assistance throughout the claims process, not just in proceedings.

OIEC has created a Customer Service Program, and must now work to establish state-of-the-art service standards, including standards for how promptly we respond to customers. Excellent customer service means being responsive to injured employee's legitimate requests honestly and promptly and by advocating vigorously when appropriate. We must recognize that outcomes of our customer service efforts may have life-long effects for the injured employee.

OIEC seeks and uses input from injured employees regarding its services. For example, OIEC has established a complaint process that injured employees can use if they have concerns regarding any of OIEC's employees or policies. Further, OIEC engaged the University of North Texas Survey Research Center to conduct a survey of injured employees during March, April and May of 2008. Survey data enabled OIEC to compare the perceptions of injured employees served by the agency with those of injured employees who secured the services of an attorney. The survey provides baseline information that will be used to increase the level of excellence of OIEC's services.

#### ***Enhance the Quality of Assistance for Injured Employees in Disputes***

Texas cannot have an effective workers' compensation system unless there is a balance in the level of expertise and support available to injured employees relative to that available to insurance carriers and health care providers. OIEC is developing creative strategies for providing the necessary amount of superior quality assistance across the State.

To maximize the availability of Ombudsmen resources, Ombudsman Leads positions have been established in each field office. Ombudsman Leads do not supervise employees but serve as mentors for new employees, including the Customer Service Department employees, answering substantive questions that arise in the field, and alerting department Supervisors of coverage issues or other problems as they occur.

OIEC has also been funded to employ Regional Staff Attorneys (RSA) across the State whose legal expertise will bolster the ability of the Ombudsmen to do their jobs. The relationships between Ombudsmen and RSAs will be defined to take advantage of the unique skill sets brought by both professionals. RSAs also develop standardized letters, motions, and forms. Through these efforts, the RSA function will enhance the quality of assistance OIEC provides to injured employees.

Finally, OIEC has received additional resources to enhance its Ombudsman services through the employment of Ombudsman Associates. OIEC aims to train these Associates so they may fully assume the duties of Ombudsmen within one year of employment. Developing a thorough and consistent approach for training, mentoring, and monitoring new Ombudsmen Associates across the State is also critical to ensuring our service quality.

***Hire and Retain Competent Employees.*** It takes competent and motivated employees to assist, educate, and advocate for injured employees. To recruit and retain such employees, OIEC must be a place where people are proud to work.

Supervisors within OIEC can influence motivation and serve as ethical role models.

Research supports that employees who know that they are working for a noble purpose can be expected to be loyal and dependable. In “Managing Business Ethics,” the authors note that “in a survey by a national opinion research firm, ethical corporate behavior, honest company communications, and respectful treatment ranked among employee’s five top ranked goals, before good pay, which was 11<sup>th</sup> on the list and job security, which ranked 14<sup>th</sup>.”

OIEC is fostering a positive organizational culture and using proven search and retention strategies to recruit, develop, and retain the best employees possible. To encourage employee involvement in decision making, OIEC has established a Policy Committee comprised of staff at various levels within the organization, to solicit, review and make recommendations for positive change. All employees at OIEC are encouraged to play a role in fostering a dynamic, positive culture.

***Increase outreach and education for injured employees.*** OIEC must take advantage of technology and resources to make sure injured employees are aware of the services available to them. Over the next biennium, OIEC will increase its outreach efforts through quarterly educational presentations for injured employees in our field offices, enhanced brochures and marketing materials which will be made available to both injured employees and doctors, and a streamlined website. The endeavors will ensure that information is available to injured employees about the claim process and services that OIEC offers.

***Ethical and Professional Practice.*** Polls reflect that Americans are losing confidence in the cherished institutions of our society at an alarming rate. In today's complex world, employees frequently face ethical dilemmas. In fact, a 2005 Ethics Resource Center survey showed that 10 percent of employees at all levels reported feeling pressure to compromise ethical standards.

Developing and projecting an ethical culture to the injured employees we serve and the general public is a primary value for OIEC. Ethicist Michael Josephson states, "Ethics is a moral perspective that asks you to judge your conduct in terms of what's right and wrong, what's decent, what's good, what's honest, what's honorable. The reason to be ethical is simply that it's the right thing to do."

John F. Kennedy, in his 1955 book, Profiles in Courage: Decisive Moments in the Lives of Celebrated Americans, articulately acknowledges the pressures that those in the public sector face in executing their responsibilities. We are often called upon to perform acts of courage, take an unpopular course of action, solve thorny issues under a spotlight or in obscurity, and maintain the respect of those with whom we interact. Kennedy writes that "...the extent to which we can accomplish our objectives and those of our constituents [is] dependent in some measure on the esteem with which we are regarded..." Earning that esteem requires the highest level of professionalism. We are called upon to uphold principles, but also to make use of compromise and, in Kennedy's words, be mindful of "the sense of things possible."

We work in an environment that requires us to exercise great judgment in our actions—to compromise in issues, when necessary, but never in matters of ethics or principles.

To underscore the value that OIEC places on ethics and to ensure that all employees understand and practice the highest ethical standards, OIEC will provide ethical training to all employees. Further, OIEC will create a "values statement" that will define the culture and values that define our organization. OIEC will also establish an Ethics Committee that will provide a forum for the discussion of ethical dilemmas and their resolution and help to disseminate information on ethical topics across the agency.

***Interagency Coordination.*** Working with other agencies such as the Texas Department of Insurance (TDI) and the Department of Assistive and Rehabilitative Services (DARS) is critical to helping injured employees achieve positive outcomes. OIEC will seek ways to enhance such coordination. One specific initiative involves the completion of a Memorandum of Agreement between OIEC, DARS and TDI's Division of Workers' Compensation by 9-1-08 regarding the methods that will be used to make referrals across the agencies.

## **PART II: Program Business Plans**

### **Administration and Operations**

- By April 2008, OIEC will share the results of the Survey for Organizational Excellence with all employees and seek input from employees on actions needed.
- By May 2008, OIEC will complete its Compact with Texans and place it on the agency website.
- By May 2008, Administration and Operations will submit a career ladder recommendation to the State Auditor's Office.
- By May 2008, OIEC will enter a Memorandum of Agreement with the Texas Department of Insurance, Division of Workers' Compensation and the Department of Assistive and Rehabilitative Services (DARS) regarding the exchange of data and the appropriate referral to DARS.
- By May 2008, OIEC will enter into an intra-agency contract with the Health and Human Services Commission (HHSC) to produce a media kit for education and outreach initiatives, complete with folder and brochures for injured employees.
- By June 2008, Administration and Operations will undergo and file responses to the internal audit to the State Auditor's Office.
- By June 2008, OIEC will formally adopt this Business Plan, which will be used as a roadmap to accomplish OIEC's goals and as a tool for tracking achievements by program area.
- By June 2008, OIEC will prepare its Base Reconciliation submission; this will start the LAR process.
- By June 2008, OIEC will adopt §276.11 regarding an Ombudsman's access to medical records.
- By June 2008, the Deputy Public Counsel will establish a Training Committee.
- By July 2008, OIEC will submit its Strategic Plan for 2009 – 2013.
- By July 2008, the OIEC will conduct its Annual Conference.
- By August 2008, OIEC will submit its Legislative Appropriations Request for 2010 – 2011.
- By August 2008, OIEC will enter into a contract with PBS to broadcast a public service announcement.

- By August 2008, The Internal Auditor will develop and the Public Counsel will approve a risk-based Internal Audit Plan.
- By August 2008, Administration and Operations will prepare a strategic plan for preparing for Sunset Advisory Commission's review in 2011.
- By September 2008, Administration and Operations will supply each field office and the Texas Medical Association with its newly developed media kit.
- By September 2008, the Deputy Public Counsel will adopt an amendment to §276.2 reflecting the changes made to OIEC's mission and structure as a result of the agency's Strategic Plan and the 80<sup>th</sup> Texas Legislature. (discuss. Language may need modification.)
- As part of OIEC's new outreach initiative, by September 2008, Administration and Operations will develop a standardized outreach presentation to be given in each field office on a quarterly basis.
- By October 2008, Administration and Operations will report the agency's FY 2008 annual performance measures.
- By October 2008, SORM 200 Report due, this report collects information on what an agency's expenditures are for risk management activities.
- By November 2008, Annual Internal Audit Report will be submitted to the State Auditors Office.
- By December 2008, Administration and Operations will publish its Legislative Report.
- By January 2009, Administration and Operations will launch improved streamlined content on its website.
- By January 2009, The Training Committee will develop a comprehensive program for both the Customer Service Program and the Ombudsman Program. In addition, the Training Committee will establish a framework for practical skills training developed and delivered by the RSAs and for the training at the monthly Ombudsmen teleconferences.
- By February 2009, Administration and Operations will develop a Records Retention Plan that complies with State requirements.
- By February 2009, the Chief Operations Analyst and Communications Specialist shall evaluate and reorganize the OIEC N: Drive for increased efficiency. Unnecessary documents should be deleted at this time.
- By March 2009, Administration and Operations will propose Sick Leave rules as required by the Texas Government Code §§661.002 - .008.
- By March 2009, OIEC will launch its three year anniversary edition of the agency's Quarterly Review, including accomplishments of the last year.



- By April 2009, the training committee shall update all training modules and the OIEC intranet.
- By June 2009, Administration and Operations will undergo a consultation and prepare for an audit.
- By June 2009, The Training Committee will update the CCH training videos.
- By August 2009, Texas Workforce Human Rights Audit.

## **Legal Services**

- By April 2008, the Director of Legal Services will have revised the Employment Manual.
- By May 2008, Legal Services will define duties and responsibilities related to RSAs and identify performance standards such as the frequency of visits to field offices via the RSA Guidelines Policy.
- By June 2008, interview questions and a skills test will be developed for the legal assistant position.
- By June 2008, Legal Services will establish a target for the performance measure to incorporate the assistance provided by the RSAs to the Ombudsmen in the strategic plan.
- By July 2008, Legal Services will have developed a standardized signature block for pleadings filed by Ombudsmen with the State Office of Administrative Hearings.
- By August 2008, Legal Services will establish an Ethics Committee. The Committee will meet quarterly and will provide ethical guidance and assistance to OIEC employees.
- By August 2008, Legal Services will establish a comprehensive list of agency policies, procedures, and forms complete with the numbering or identification system.
- By January 2009, Legal Services will have established a procedure for identifying the answers to questions and assistance provided by the RSAs that will be saved on the N: drive so that all OIEC employees may access them.
- By February 2009, Legal Services will review and finalize the agency record retention policy.
- By June 2009, Legal Services will undergo a consultation and prepare for an audit.
- By June 2009, the Director will submit a report detailing the progress of early intervention within Ombudsmen Services. Proposed program business process improvements will be given to the Deputy Public Counsel at this time.

## **Customer Services**

- By June 2008, the Customer Services Program will have posted all of its initial vacant Customer Service Representative (CSR) positions and completed interviewing for those initial postings.
- By June 2008, Customer Service shall start first initial contacts to OIEC's customers to inform them of OIEC programs and services.
- By July 2008, the Customer Service Program will develop its performance recognition program.
- By July 2008, the Program will open its call center and adopt standards for answering the toll-free line, hold times, and related customer service standards. These standards will be relayed to the OIEC training committee.
- By August 2008, the Customer Service Program will hire a Customer Service trainer.
- By September 2008, the Customer Service Program will develop its career ladder and establish a mentor program.
- By January 2009, the Program will have determined and documented methods for tracking and evaluating performance with regard to customer service.
- By January 2009, the Program will undergo a consultation and prepare for an audit.
- By June 2009, the Program will have assessed the extent to which injured employees are afforded a "one-stop-shop" experience and generated ideas for continued progress. A program report will be generated by the Manager detailing the progress and proposing business process improvements to the Deputy Public Counsel.

## **Ombudsman Program**

- By April 2008, Ombudsmen Services will establish the Appeal Procedure.
- By April 2008, Ombudsmen Services will establish a mail procedure.
- By July, 2008, early intervention will be incorporated into the OIEC's dispute resolution system.
- By September 2008, at least 18 Ombudsman Associates will have completed OIEC's year-long training program.
- By September 2008, a public outreach program will be established whereby Deputy Directors, Team Supervisors, Ombudsmen Leads, or designees in each field office will give presentations about OIEC's services and the basics of a workers' compensation claim quarterly in each field office.
- By November 2008, all Ombudsmen will be up to date in Deputy Director's observations.
- By November 2008, the Ombudsmen handbook will be updated.

- By January 2009, Ombudsmen Services will develop a program to measure early intervention for progress.
- By July 2009, the Ombudsman Program will undergo an audit.
- By June 2009, the Director will submit a report detailing the progress of early intervention within Ombudsmen Services. Proposed program business process improvements will be given to the Deputy Public Counsel at this time.

## APPENDIX A

### **The Office of Injured Employee Counsel (OIEC): Mission, History, and Strategic Planning Goals**

***Mission.*** OIEC's mission 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.

***History.*** OIEC was created by H.B. 7, 79<sup>th</sup> Legislature, Regular Session 2005, to assist, educate and advocate for injured employees in the workers' compensation claims process. In accordance with H.B. 7, the Governor appointed a Public Counsel in December 2005 who assumed his duties in January 2006.

Consistent with OIEC's enabling legislation, staff that had performed Ombudsman functions for the Texas Department of Insurance's, Division of Workers' Compensation (DWC) were transferred to OIEC effective March 1, 2006, and OIEC began providing services to injured employees.

H.B. 7 also authorized OIEC to employ regional staff attorneys (RSAs) to provide Ombudsmen with training and consultation on substantive law and court decisions and effective preparation and presentation at administrative hearings. RSAs provide rule and statutory interpretations to ensure consistent application of law and rules in the workers' compensation system.

In addition to the staffing changes discussed above, the 80<sup>th</sup> Texas Legislative authorized the transfer of 25 employees from the DWC September 1, 2007, to augment the Ombudsmen Program. These employees will be in training for a year at which time they will be required to have become licensed as workers' compensation claims adjusters, and they will be assigned the duties of Ombudsmen. These transferees are all experienced in the workers' compensation process, but they will receive extensive training in the advocacy role that they will perform for injured employees.

The 80<sup>th</sup> Texas Legislature also approved funding for a Customer Service Program and gave OIEC the responsibility to provide "one-stop-shopping" convenience to injured employees. This Program will assist injured employees who need services but have not been denied benefits or become involved in a claim dispute. OIEC's Customer Service Program will have at least one Customer Service Representative (CSR) in nearly all of the field offices and a call center will be maintained in the Fort Worth field office for answering the OIEC toll-free line and providing back-up for local calls in field offices as needed. The first CSR was hired in October 2007.

OIEC is administratively attached to the Texas Department of Insurance (TDI), which provides office space, supplies, and equipment as well as administrative services such as Information Technology and Human Resources support.

While only those injured employees who work for employers who have chosen to provide workers' compensation coverage may receive Ombudsman services and be assisted in disputes relating to workers' compensation decisions, OIEC is directed to advocate on behalf of injured workers as a class when the Public Counsel determines that such assistance is necessary to protect workers' interests as contemplated by the enabling statutes and rules.

### ***Strategic Planning Goals, Strategies, and Performance Measures.***

The 2008-09 General Appropriations Act documents OIEC's Strategic Planning Goals and the strategies and key performance measures associated with those goals. OIEC's Business Plan is developed consistent with these goals. These are listed below:

**GOAL 1: Advocate for Injured Employees in Rulemaking and Other Public Forums.**

Strategy: Participate in Rulemaking & Provide Information, Research & Testimony.

Outcome Measure: Percentage of Rules Changed for the Benefit of Injured Employees as a Result of Office of Injured Employee Counsel Participation (50% is target)

Output Measure: Number of Rules (Informal and Formal) Analyzed by Office of Injured Employee Counsel (22 is target)

Output Measure: Number of Rulemaking Processes (Informal and Formal) in which the Office of Injured Employee Counsel Participated (17 is target)

**GOAL 2: Increase Injured Employee Education and Provide Referrals.**

Strategy: Contact and Assist Injured Employees and Educate System Participants.

Strategy: Refer Injured Employees to Programs, Services, and Licensing Boards.

**GOAL 3: Assist Injured Employees through the Ombudsman Program.**

Strategy: Prepare and Assist Injured Employees in BRCs, CCHs, and Appeals.

Outcome Measure: Percentage of Scheduled Proceedings at the Division of Workers' Compensation with Ombudsman Assistance (45% is target)

Outcome Measure: Percentage Contested Case Hearings (CCH) Issues in which Injured Employees Prevailed when Assisted by an Ombudsman (40% is target)

Outcome Measure: Percentage of Appeal Issues in which Injured Employees Prevailed when Assisted by the Ombudsman (40% is target)

Output Measure: Number of Benefit Review Conferences with Ombudsman Assistance (8,000 is target)

Output Measure: Number of Contested Case hearings with Ombudsman Assistance (2,700 is target)

Output Measure: Number of Injured Employees Prepared for an Appeal by an Ombudsman (875 is target)



## Appendix B

### Business Initiative Tracking Sheet FY 2008 – 4<sup>th</sup> Quarter

Task	Date	Section	Status (Completed / Pending)
OIEC will share the results of the Survey for Organizational Excellence with all employees and seek input from employees on actions needed.	April 2008	Administration & Operations	Completed in April.
The Director of Legal Services will have revised the Employment Manual.	April 2008	Legal Services	Completed in April.
Ombudsmen Services will establish the Appeal Procedure.	April 2008	Ombudsmen Services	
Ombudsmen Services will establish a mail procedure.	April 2008	Ombudsmen Services	Completed in April.
OIEC will complete its Compact with Texans and place it on the agency website.	May 2008	Administration & Operations	
Administration and Operations will submit a career ladder recommendation to the State Auditor's Office.	May 2008	Administration & Operations	Completed in May.
OIEC will enter a Memorandum of Agreement with the Texas Department of Insurance, Division of Workers' Compensation and the Department of Assistive and Rehabilitative Services (DARS) regarding the exchange of data and the appropriate referral to DARS.	May 2008	Administration & Operations	Signed by DWC and OIEC in May. Pending execution at DARS as of June.
OIEC will enter into an intra-agency contract with the Health and Human Services Commission (HHSC) to produce a media kit for education and outreach initiatives, complete with folder and brochures for injured employees.	May 2008	Administration & Operations	Draft submitted for signature last week of May.

Legal Services will define duties and responsibilities related to RSAs and identify performance standards such as the frequency of visits to field offices via the RSA Guidelines Policy.	May 2008	Legal Services	Completed in May.
Administration and Operations will undergo and file responses to the internal audit to the State Auditor's Office.	June 2008	Administration & Operations	May audit completed. Currently waiting for audit findings.
OIEC will adopt §276.11 regarding an Ombudsman's access to medical records.	June 2008	Administration & Operations	
The Deputy Public Counsel will establish a Training Committee.	June 2008	Administration & Operations	
OIEC will formally adopt this Business Plan, which will be used as a roadmap to accomplish OIEC's goals and as a tool for tracking achievements by program area.	June 2008	Administration & Operations	
OIEC will prepare its Base Reconciliation submission; this will start the LAR process.	June 2008	Administration & Operations	
Interview questions and a skills test will be developed for the legal assistant position.	June 2008	Legal Services	
Legal Services will establish a target for the performance measure to incorporate the assistance provided by the RSAs to the Ombudsmen in the strategic plan.	June 2008	Legal Services	
The Customer Services Program will have posted all of its initial vacant Customer Service Representative (CSR) positions and completed interviewing for those initial postings.	June 2008	Customer Service	
Customer Service shall start first initial contacts to OIEC's customers to inform them of OIEC	June 2008	Customer Service	



programs and services.			
OIEC will submit its Strategic Plan for 2009 – 2013.	June 2008	Administration & Operations	
OIEC will conduct its Annual Conference.	July 2008	Administration & Operations	
Legal Services will have developed a standardized signature block for pleadings filed by Ombudsmen with the State Office of Administrative Hearings.	July 2008	Legal Services	
The Customer Service Program will develop its performance recognition program.	July 2008	Customer Services	
The Customer Service Program will open its call center and adopt standards for answering the toll-free line, hold times, and related customer service standards. These standards will be relayed to the OIEC training committee.	July 2008	Customer Services	
Early intervention will be incorporated into the OIEC's dispute resolution system.	July 2008	Ombudsmen Program	
OIEC will submit its Legislative Appropriations Request for 2010 – 2011.	August 2008	Administration & Operations	
OIEC will enter into a contract with PBS to broadcast a public service announcement.	August 2008	Administration & Operations	
The Internal Auditor will develop and the Public Counsel will approve a risk-based Internal Audit Plan.	August 2008	Administration & Operations	
Administration and Operations will prepare a strategic plan for preparing for Sunset Advisory Commission's review in 2011.	August 2008	Administration & Operations	
Legal Services will establish an Ethics Committee. The Committee will meet quarterly and will provide	August 2008	Legal Services	

ethical guidance and assistance to OIEC employees.			
Legal Services will establish a comprehensive list of agency policies, procedures, and forms complete with the numbering or identification system.	August 2008	Legal Services	
The Customer Service Program will hire a Customer Service trainer.	August 2008	Customer Services	