



Strategic Plan

Fiscal Years 2009-2013

The Office of Injured Employee Counsel

Norman Darwin, Public Counsel

July 11, 2008



AGENCY STRATEGIC PLAN

FOR THE FISCAL YEARS 2009-2013

BY

THE OFFICE OF INJURED EMPLOYEE COUNSEL

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Signed: 
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SECURING OUR FUTURE: The Statewide Strategic Planning Elements for Texas State Government

STATEWIDE VISION, MISSION, PHILOSOPHY, GOALS AND BENCHMARKS

STATEWIDE VISION

Working together, I know we can address the priorities of our citizens. As my administration works to create greater opportunity and prosperity for our citizens, making our State and its people truly competitive in the global marketplace, we must remain focused on the following critical priorities:

- *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 to secure Texas' global competitiveness, leading our people and a stable source of funding for 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 us harm; and*
- *Providing disciplined, principled government that invests public funds wisely and efficiently.*

I appreciate your commitment to excellence in public service and look forward to the outcome of this necessarily rigorous process.

STATEWIDE MISSION

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.

Aim high . . . we are not here to achieve inconsequential things!



STATEWIDE PHILOSOPHY

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.

STATEWIDE GOALS AND BENCHMARKS

HEALTH AND HUMAN SERVICES

PRIORITY GOAL

To promote the health, responsibility, and self-sufficiency of individuals and families by:

- Making public assistance available to those most in need through an efficient and effective system;
- Restructuring Medicaid funding to optimize investments in health care and reduce the number of uninsured Texans through private insurance coverage;
- Enhancing the infrastructure necessary to improve the quality and value of health care through better care management and performance improvement incentives;
- Continuing to create partnerships with local communities, advocacy groups, and the private and not-for-profit sectors;
- Investing State funds in Texas research initiatives which develop cures for cancer; and
- Addressing the root causes of social and human service needs to develop self-sufficiency of the client through contract standards with not-for-profit organizations.



BENCHMARK

- Percent of people completing vocational rehabilitation services and remaining employed

ECONOMIC DEVELOPMENT

PRIORITY GOAL

To provide an attractive economic climate for current and emerging industries that fosters economic opportunity, job creation, capital investment, and infrastructure development by:

- Promoting a favorable and fair system to fund necessary State services;
- Addressing transportation needs;
- Promoting a favorable business climate; and
- Developing a well trained, educated, and productive workforce.

BENCHMARK

- Number of Texans receiving job training services

REGULATORY

PRIORITY GOAL

To ensure Texans are effectively and efficiently served by high-quality professionals and businesses by:

- Implementing clear standards;
- Ensuring compliance;
- Establishing market-based solutions; and
- Reducing the regulatory burden on people and businesses

BENCHMARKS

- Percent of documented complaints to professional licensing agencies resolved within six months
- Number of utilization reviews conducted for treatment of occupational injuries

GENERAL GOVERNMENT

PRIORITY GOAL

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

- Supporting effective, efficient, and accountable State government operations;
- Ensuring the State's bonds attain the highest possible bond rating; and
- Conservatively managing the State's debt.

BENCHMARKS

- Number of State employees per 10,000 population
- Number of State services accessible by Internet
- Total savings realized in State spending by making reports / documents / processes available on the Internet



AGENCY MISSION AND PHILOSOPHY

OFFICE OF INJURED EMPLOYEE COUNSEL MISSION

To assist, educate, and advocate on behalf of the injured employees of Texas.

OFFICE OF INJURED EMPLOYEE COUNSEL PHILOSOPHY

The Office of Injured Employee Counsel (OIEC) is committed to protecting the rights of the injured employees of Texas in the workers' compensation system. OIEC provides the highest level of professional, efficient, and effective customer services; and maintains a work environment that values a diverse workforce, ethical management practices, teamwork, respect, and dignity.



EXTERNAL / INTERNAL ASSESSMENT

Overview of Agency Scope and Functions

Statutory Basis

The statutory authority for OIEC is found in Chapter 404 of the Texas Labor Code.

This statute sets out the duties of OIEC, which are to represent the interests of injured employees in the Texas Workers' Compensation System.

Historical Perspective

OIEC was formally established on March 1, 2006 as a result of the adoption of House Bill (HB) 7, 79th Texas Legislature, Regular Session, 2005. HB 7 abolished the Texas Workers' Compensation Commission (TWCC) and established the Division of Worker' Compensation (DWC) as a division within the Texas Department of Insurance (TDI). HB 7 also transferred TWCC's Ombudsman Program to OIEC. The Public Counsel of OIEC was appointed by Governor Rick Perry on December 8, 2005, and reappointed on March 9, 2007.

Creation of the Office of Injured Employee Counsel (OIEC). For the first time, the State will have a dedicated agency with the sole focus of helping injured employees. OIEC will oversee the ombudsman program and advocate for the interests of injured employees on key rules and policies, to ensure balance and fairness for all in the system.

Source: Governor's Office Website

Affected Populations

Workers' compensation coverage is not mandatory in Texas; therefore, OIEC's primary service population is injured employees who work for employers that participate in the Texas Workers' Compensation System. Also included in OIEC's primary service population are beneficiaries of injured employees fatally injured on the job whose employers participate in the Texas Workers' Compensation System.

Based on a 2006 study conducted by TDI, Workers' Compensation Research Group, approximately 63% of Texas employers carry workers' compensation insurance while 77% of all employees in the State are covered by workers' compensation.¹

OIEC assists other system participants in the workers' compensation system on behalf of injured employees including: health care providers; employers; insurance carriers; attorneys and other representatives; friends and family of injured employees; and other workers' compensation system stakeholders.

OIEC takes pride in the customer service provided to all parties in the workers' compensation system and is committed to assist, educate, and advocate on behalf of the injured employees of Texas.

¹ Source: Employer Participation in the Texas Workers' Compensation System: 2006 Estimates conducted by TDI, Workers' Compensation Research Group in October 2006.



Main Functions

OIEC was established to represent the interests and provide services to all unrepresented injured employees when assistance is requested. OIEC's main functions include:

- 1) Assisting injured employees in the workers' compensation system by providing free ombudsman services in TDI's administrative dispute resolution system;
- 2) Educating injured employees about their rights and responsibilities and improving their ability to effectively navigate through the workers' compensation system; and
- 3) Advocating on behalf of injured employees as a class in order to protect their rights and to achieve a balanced workers' compensation system.

OIEC also refers injured employees to the Department of Assistive and Rehabilitative Services, the Texas Workforce Commission, TDI and other social or regulatory services, such as the Health and Human Services Commission or licensing boards to assist injured employees with:

- 1) finding employment,
- 2) training opportunities,
- 3) returning to work,
- 4) filing complaints with appropriate licensing boards or other regulatory agencies,
- 5) obtaining financial assistance, and
- 6) reporting alleged administrative violations.

Additionally, OIEC provides outreach presentations, workshops, seminars, speaking engagements, or other forums to workers' compensation system stakeholders regarding the agency, its role, and its services.

Public Perception

Much of the State's population is not familiar with the role of OIEC. According to a 2006 survey of employer participation in the Texas Workers' Compensation System conducted by TDI's, Workers' Compensation Research Group in October 2006, approximately 65% of Texas employers said that they had no knowledge at all about the 2005 House Bill 7 reforms.²

Many individuals confuse OIEC's responsibilities with the regulatory functions of TDI. Although OIEC is administratively attached to TDI, services provided by OIEC do not include regulatory functions.

OIEC's Ombudsman Program is designed to assist injured employees in TDI's administrative dispute resolution system. Concern by attorneys that OIEC would take some of their business has been comforted because OIEC assists injured employees who are often turned away by the attorney community and because OIEC recognizes that there may be cases where attorney representation of an injured employee is more appropriate. In some cases, OIEC may make referrals to the Texas State Bar for assistance in finding an attorney to represent an injured employee, for instance, in district court where OIEC's Ombudsmen are not permitted to provide assistance to injured employees.

OIEC's outreach efforts are essential to inform the public about services provided and the role that OIEC plays in the workers' compensation system.

² Source: Employer Participation in the Texas Workers' Compensation System: 2006 Estimates conducted by TDI, Workers' Compensation Research Group in October 2006



Organizational Aspects

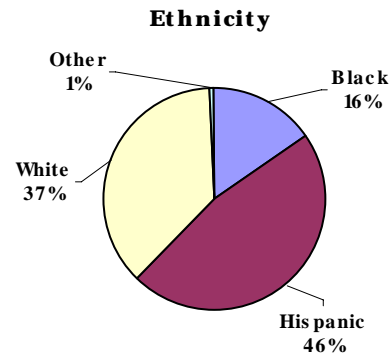
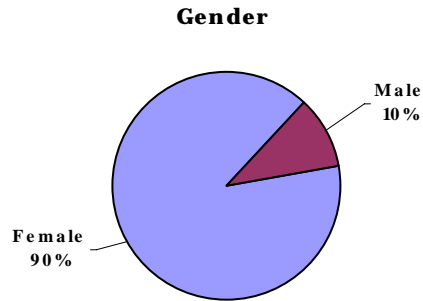
Size and Composition of Workforce

During the FY 2008-2009 biennium, OIEC is authorized to employ 183 full-time-equivalent positions (FTE's). As of April 30, 2008, OIEC has 17 vacancies. Most of the vacancies are the result of 36 new customer service positions acquired as of September 1, 2007. However, OIEC expects to be fully staffed by the end of the fiscal year.

Approximately 11% of staff is located in the central office and 89% is located in 25 field offices across the State.

To effectively and efficiently serve the injured employees of Texas, OIEC relies on competent and knowledgeable staff. Officials, administrators, and para-professionals make up more than 85% of the entire workforce. The remaining workforce consists of administrative support, which assists customers with inquiries, filing appropriate forms, and other customer service duties.

Females make up 90% of the workforce, and Blacks and Hispanics make up 62% of the agency's workforce.



EEO Category	Office of Injured Employee Counsel – Workforce Statistics							
	Black	Hispanic	White	Asian	Other	Female	Male	Total Positions
Officials, Admin. (A)	1	6	4	0	0	7	4	11
Professional (P)	18	36	40	0	1	85	10	95
Technical (T)	0	0	0	0	0	0	0	0
Para-Professional (Q)	2	19	5	0	0	25	1	26
Admin. Support (C)	3	11	8	0	0	21	1	22
Skilled Crafts (S)	0	0	0	0	0	0	0	0
Service & Maintenance (M)	0	0	0	0	0	0	0	0



Organizational Structure

OIEC's organizational structure consists of the Executive division, which is made up of the Public Counsel, Deputy Public Counsel, Director of Legal Services, Director of the Ombudsman Program, and the Director of Customer Services. The agency has four divisions:

- Administration and Operations,
- Ombudsman Program,
- Legal Services, and
- Customer Services.

Public Counsel. The Public Counsel is the head of the agency and is appointed by the Governor with the advice and consent of the senate. The Public Counsel serves a two-year term that expires on February 1 of each odd-numbered year (Texas Labor Code §404.051).

The Deputy Public Counsel oversees the daily operations and administration of OIEC and serves as OIEC's legislative liaison and government relations representative.

Administration and Operations. Administration and Operations provides technical and administrative support to the agency. Functions within this department include strategic planning and reporting; performance measure monitoring and reporting; communications and outreach initiatives including website maintenance; and training efforts. OIEC is administratively attached to TDI, and Administration and Operations staff serves as liaison to services provided by TDI, such as human resources, budget and purchasing, facilities, computer technology, and office supply needs.

Ombudsman Program. The Ombudsman Program provides free assistance to unrepresented injured employees. Ombudsmen conduct meetings with injured employees to

prepare them for informal and formal administrative dispute resolution proceedings, and assist the injured employee during the proceedings.

The Ombudsman Program is comprised of 63 Ombudsmen, 29 Ombudsman Assistants, and 27 Ombudsman Associates working in the 25 field offices in Texas. The Program is managed by a Director, four Deputy Directors and seven Ombudsman Supervisors. The Supervisors provide oversight, direction and management in the field offices across the State.

Legal Services. Legal Services provides Regional Staff Attorneys (RSAs) as a resource for the Ombudsmen as they fulfill their mandate to assist, educate, and advocate for injured employees. RSAs supervise the work of the Ombudsman Program and advise ombudsmen in providing assistance to injured employees in preparation for informal and formal hearings. Legal Services is comprised of a Director and seven RSAs. One RSA is assigned to each regional team throughout the State. The RSA is available to serve as a legal resource for all team members.

Legal Services analyzes and provides comments on rules proposed by TDI and suggests legislative recommendations that will protect the interests of injured employees. The department also determines whether there are issues pending before either the Texas appellate courts or the Supreme Court where OIEC needs to serve as a voice for the injured employees of Texas.

Customer Services. Customer Services was created to provide a "one-stop-shop" to all unrepresented injured employees at any point in their claim when assistance is requested. Staff is available to answer questions about the workers' compensation process and to provide assistance in other ways; such as



completing various claim forms, and identifying and rectifying problems or disagreements.

One of OIEC's Customer Service Standards is to acknowledge written inquiries, complaints, or correspondence as soon as possible, but in most cases within 2 business days (16 business hours) after receipt. The standards are included in OIEC's Compact With Texans, which can be found on its website.

OIEC's Customer Service Program is comprised of 27 customer service representatives (CSRs), two Supervisors and a Director. The Supervisors provide oversight, direction, and management to the CSRs and are located in the Dallas and San Antonio field offices. There is at least one CSR in nearly all of the field offices.

A call center is maintained in the Fort Worth field office and is assigned to answer OIEC's toll-free line and provides back-up support to TDI staff for answering local calls in field offices as necessary.

OIEC's Organizational Chart can be found in Appendix B.

Geographical Location

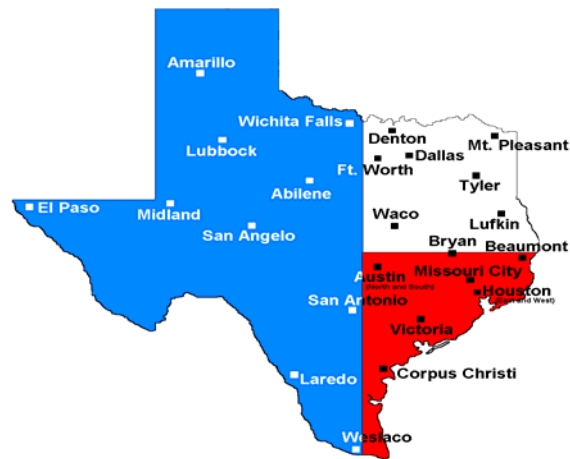
OIEC's Central Office is located at 7551 Metro Center Drive in Austin, Texas, and there are 25 field offices strategically located around the State. OIEC staff is housed within the Central Office and each field office. TDI provides all facilities for OIEC.

Travel. Ombudsman and other OIEC staff travel throughout Texas to provide adequate support and services for each field office and all injured employees. Two facilities, located in Uvalde and Mt.

Pleasant, are provided for the sole purpose of holding dispute proceedings.

The Uvalde and Mt. Pleasant facilities assist in ensuring that injured employees will have to travel no more than 75 miles from their residence to a benefit review conference or contested case hearing.

Field Office Locations



Out-of-State Requirements. OIEC staff is not required to travel outside the State except for conferences and training.

Location of Service Populations

Injured employees who live in a bordering state and in a county or parish that is contiguous to the Texas border are served by the closest field office handling the workers' compensation claim. The Victoria Field Office handles claims for injured employees living outside Texas in counties that do not adjoin the Texas border.

Much of the population that OIEC serves does not speak English. A majority of the field offices, specifically 88%, have OIEC staff that is able to provide personal assistance in Spanish. Almost half of the Ombudsmen speak Spanish and are



available for Spanish speaking injured employees. Interpreter services provided by OIEC staff are also available for injured employees in various stages of the workers' compensation dispute resolution process.

Pursuant to Texas Labor Code §404.005(a), OIEC shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to OIEC's programs. OIEC is in compliance with Texas Labor Code §404.005(a) and is committed to making information and services available to Texans who speak languages other than English. OIEC's access plan for non-English speakers can be found on OIEC's website at the following location: <http://www.oiec.state.tx.us/resources/publications.html>

OIEC provides outreach and information materials for injured employees and employers. All literature and materials are available in Spanish and other languages upon request.

Other resources are also available to members of the non-English speaking public. OIEC's toll free number (1-866-EZE-OIEC • 1-866-393-6432) provides assistance to callers in both English and Spanish. Also, OIEC's website (www.oiec.state.tx.us) is available in both English and Spanish and may be used as a helpful resource.

The injured employees' "Rights and Responsibilities" brochure, which is mailed to all injured employees, is available on the internet in six different languages, including English, Spanish, Chinese (Cantonese), Korean, and Vietnamese.

OIEC is committed to continue efforts to improve and expand its offerings to non-English speakers in the State.

Texas-Mexico Border Regions.

According to the Center for Demographic and Socioeconomic Research and Education, one of the three parts of Texas that has showed the highest levels of population growth included areas along the Texas-Mexico border, and the rate of growth is expected to continue.³

The Texas-Mexico border region includes the following 43 South Texas counties: Atascosa, Bandera, Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, Edwards, El Paso, Frio, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala.

Field offices serving counties located along the Texas-Mexico border include Corpus Christi, El Paso, Laredo, Midland, San Angelo, San Antonio, and Weslaco and one dispute proceeding facility located in Uvalde.

Texas-Louisiana Border Region.

The Texas-Louisiana border region is the area set out in law that includes the following 18 Northeast Texas counties: Bowie, Camp, Cass, Delta, Franklin, Gregg, Harrison, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, Smith, Titus, Upshur, and Wood.

Field offices serving counties located along the Texas-Louisiana border are located in Tyler, Beaumont, and Lufkin, and one dispute proceeding facility in Mount Pleasant.

Texas-New Mexico Border Region.

The Lubbock, Amarillo, and El Paso field

³ Source: A Summary of The Texas Challenge in the Twenty-First Century: Implications of Population Change for the Future of Texas conducted by the Center for Demographic and Socioeconomic Research and Education, December 2002



offices serve injured employees along the Texas-New Mexico border.

Texas-Oklahoma/Arkansas Border Region. Field offices located in Amarillo, Wichita Falls, Tyler and Denton serve injured employees along the Texas-Oklahoma border. The Tyler field office also provides customer assistance to injured employees residing in Arkansas counties bordering Texas.

Human Resources Strengths and Weaknesses

The agency expects to experience a loss of skills and institutional knowledge as retirements increase over the next few years due to the aging workforce. However, OIEC is committed to recruiting, hiring, and employee retention practices that promote a labor force that is reasonably representative of the Texas civilian workforce. It is OIEC’s policy to provide equal employment opportunities to all employees and qualified applicants, regardless of race, color, creed, religion, sex, age, national origin, disability, veteran status, or genetic information.

Aging Workforce. The average age of an OIEC employee is 45. One-fourth of the employees are under the age of 30, while 43 percent are between the ages of 40 and 49. More than 30 percent are 50 or older.

Average State Tenure. The average State tenure for an OIEC employee is 10.83 years. Almost ten percent of OIEC employees have at least 20 years of experience while almost 50 percent have between 10 and 20 years of experience.

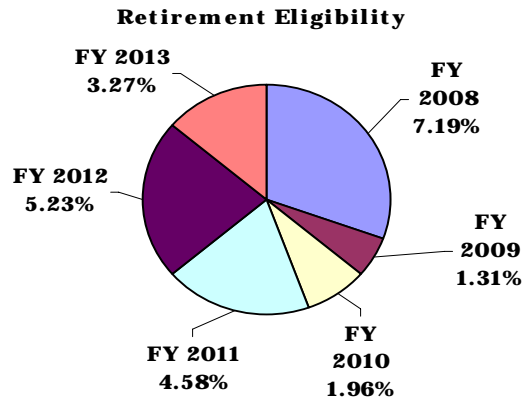
OIEC works hard and is fortunate to have such a diverse and experienced workforce.

Turnover. The average turnover rate in FY 2007 was 15.31 percent. Of those, 3.06 percent was due to retirement.

The average turnover for the agency as of February FY 2008 is 7.17 percent with 2.15 percent due to retirement.

It is worth noting that 92 percent of OIEC employees see themselves working for this agency in two years, and OIEC believes that is a good indicator of how well the organization is doing at retaining its employees according to the agency’s 2008 Survey of Organizational Excellence. Additional information regarding the survey can be found in Appendix G.

Retirement through FY 2013. Approximately 24% of OIEC’s workforce will be eligible to retire through FY 2013 as reflected in the chart below.



Recruitment and retention activities, training, and succession planning are key to ensuring a knowledgeable and effective workforce. Cross-functional training is also key to ensure a workforce that will be efficient and effective regardless of the number of staff that leave the agency.



Recruitment and Retention Activities.

OIEC strives to ensure that employees are satisfied with their work environment and enjoy coming to work. Programs and policies are in place to enhance the work environment and help keep employees satisfied.

Alternative Work Schedule Program.

This program extends the number of hours that agency staff is available to provide services. The program is intended to improve customer service and better accommodate customer needs by offering extended service hours from 7:30 a.m. until 7:00 p.m. Monday through Friday. Every effort is made to accommodate the needs of individual employees who are working extended or alternate hours; however, in all instances, business necessity is the overriding factor.

The Performance Planning and Development System (PPDS).

This evaluation process provides supervisors the tools to develop an employee's performance, address performance that does not meet expectations, and handle performance problems in a manner that encourages individual responsibility for results. This system also presents an opportunity for the supervisor and the employee to look to the future and identify opportunities for the employee's growth and development.

Tuition Reimbursement Program. OIEC recognizes that the continuous education of employees is important and should be encouraged. The Tuition Reimbursement Program provides college tuition reimbursement for employees who want to develop their job skills for the benefit of the employee and of OIEC. A course eligible for reimbursement under this program must be related to the duties or prospective duties of the employee, and

must be approved by the Deputy Public Counsel.

Policy Development Program. OIEC's Policy Development Program was initiated in an effort to better communicate and receive ideas from all employees. Recognizing the value and ideas of each employee, this program was designed to serve as a channel of communication for "great ideas."

While participation in this program is optional, all OIEC employees are encouraged to submit their ideas on how to improve OIEC, OIEC's policies or procedures, or work environment. OIEC's executive management team review the ideas or recommendations submitted monthly. Confidentiality of employees who submit policy recommendations is being provided to encourage all OIEC employees to participate in providing suggestions to improve our agency.

Training and Succession Planning.

Training is a year-round requirement for OIEC staff. The many complexities of the workers' compensation system necessitate ongoing training.

New Employee Training. All new employees are required to participate in new employee training. Training courses are available on the Intranet and may include a course description page with prerequisite reading, the course itself, and helpful links. The training courses consist of slideshows, videos, or videos with a handout. Some courses include audio. All employees are also required to read the employee manual and take core training offered by OIEC and TDI, such as Ethics, Confidentiality, Preventing Sexual Harassment, and Workplace Conduct.

Career Ladder Program. OIEC is committed to developing employees and promoting employee development and



initiative by establishing structured career progressions reflecting the agency's business needs and the benefit to employees of having defined career advancement opportunities and requirements.

Although the agency places a high priority on promoting employees through career ladders, advancement, like other promotions, is subject to the availability of funding.

Not all positions lend themselves to a clearly defined career ladder. Employees occupying non-career ladder positions receive promotions through other agency promotion processes.

Ethical and Professional Practice.

Developing and projecting an ethical culture to the injured employees agency serves 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. Public servants 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. Public servants 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."

OIEC staff works in an environment that requires the extensive exercise of 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 provides ethics training to all employees. Further, OIEC created a "values statement" that defines the culture and values that define the organization. OIEC established an Ethics Committee that provides a forum for the discussion of ethical dilemmas and their resolution and helps to disseminate information on ethical topics across the agency.

Ombudsman Training Program. The 80th Texas Legislature, 2007, transferred 25 employees (effective September 1, 2007) from TDI to OIEC to augment the Ombudsmen Program.

The 25 transferees from TDI entered service with OIEC as Ombudsmen Associates and began a year-long training program at the end of which they will have earned their type O3 workers' compensation adjustor's licenses and be reclassified as Ombudsmen I. The training program for an Associate consists of one year of training divided into two parts. In Part I (26 weeks) the Associates complete new employee orientation courses, classroom studies, customer services, and observation of activities. After completing Part I, the Associates enter Part II of the program. In Part II (also 26 weeks) the Associates begin conducting meetings with claimants in preparation for dispute resolution hearings and assisting in proceedings while being observed and evaluated by their Deputy



Director of the Ombudsman Program (Senior Ombudsmen). During Part II, the Associates are required to obtain a type 03 workers' compensation adjuster's license. Upon successful completion of the training program, Associates are eligible for a career ladder promotion to an Ombudsman I.

The Ombudsman I must have at least one year of workers' compensation experience as required by Texas Labor Code §404.152. They participate in proceedings; assist injured employees to obtain supporting documentation and to appropriately and timely exchange evidence; maintain an index folder; and work closely with the Ombudsman Assistants to effectively assist injured employees. If an Ombudsman I was not previously an Associate, then the Ombudsman I completed a 20 week training program during which time a type 03 workers' compensation adjuster's license was obtained.

The Ombudsman II is required to have at least two years of workers' compensation experience. The Ombudsman II must maintain all of the requirements of an Ombudsman I and may be required to assist Team Supervisors and Deputy Directors in the training and mentoring of Ombudsmen Associates, new Ombudsmen, and Customer Services Representatives.

All Ombudsmen assist with early intervention when injured employees request assistance. The goal of early intervention is to resolve the issues before going to a hearing; therefore Ombudsmen (Associates in particular) may become involved in a case before it is scheduled for a dispute proceeding.

Ombudsmen must remain current on continuing education requirements in order to maintain their adjuster's licenses. These credits are offered through Practical Skills Training

conducted by the RSAs and the annual conferences. Additional training is provided through monthly teleconferences.

Practical Skills Training Program. The Practical Skills Training Program is designed to help the Ombudsmen refine their skills in assisting injured employees in proceedings before TDI.

At least 3 different practical skills training courses are offered by the RSAs each year. The training is delivered in six regional locations across the State and the Ombudsmen receive continuing education credits for participating in the training, which helps them fulfill the requirements for maintaining their statutorily required type 03 workers' compensation adjuster's license.

The courses are designed to give practical, useful information to the Ombudsmen, which they can immediately implement into the performance of their job duties. There is a lecture and discussion component at each training session. In addition, written material is prepared to provide more detailed resource material than can be presented in a lecture. The written materials from each practical skills training are posted on OIEC's intranet for future reference. Finally, each practical skills training includes some practical application of the material to test the participants knowledge of the subject matter covered in the training. Those exercises provide an excellent opportunity to provide feedback from the trainer and the participants and a chance to have a little fun, which plays a significant role in team building.

Customer Service Representative (CSR) Training. A comprehensive training program is provided to each CSR as they are hired so that they will have the information necessary to respond



accurately and promptly to the issues that injured employees bring to them.

Training manuals with copies of the workers' compensation Act and Rules are provided to each CSR with the requirement that they be conversant with the information contained therein. Requirements include completing workers' compensation modules and reviewing the agency website links to provide for ongoing educational and procedural presentations, including instructions on the use of Compass and TXComp (workers' compensation automation systems). A monthly review of Appeals Panels decisions is also required as they provide interpretations of the Act and Rules and procedural clarifications.

Before being assigned to providing customer service to injured employees, CSRs are required to observe interaction between injured employees and Ombudsmen staff. In addition, new CSRs choose or are assigned a senior CSR or Ombudsman Associate or Assistant as a mentor for guidance and advice. They are also required to observe dispute resolution proceeding appointments, preparation sessions, benefit review conferences, and contested case hearings. Training exercises are given that are designed to help CSRs determine the questions to ask injured employees and the information that should be provided, based upon the claimant's needs. This extensive training is designed to produce employees who are well-equipped to provide exceptional customer service.

OIEC CSR staff provides advocacy, assistance, and education about the workers' compensation system while TDI staff process official and regulatory actions.

Monthly Teleconferences. Monthly teleconferences are held to ensure OIEC

staff in the field and Central Office stays abreast of information necessary to continue to effectively serve the injured employees of Texas. Teleconferences may be held for specific functions, such as Ombudsman or Customer Service Assistants, or as an agency as a whole. RSAs may make presentations on legal issues, or presentations may be made on new legislation, policies and procedures. Agency staff also has the opportunity to request particular topics be included in the teleconferences via the agency Policy Development Program.

Annual OIEC Conference. OIEC's conference is held each year in July for all OIEC staff to come together in one place. The conference generally lasts 2½ days. Since OIEC staff is located throughout Texas, the conference provides an opportunity to get to know each other - providing a face with a name, building OIEC's network, and increasing agency relations to overcome geographical barriers among OIEC's 25 locations.

Training sessions are held that promote teamwork and ethics as well as provide information about other aspects of the agency that staff may not be familiar with. Breakout sessions are held on a variety of topics including current legislative activities, changes in workers' compensation laws and rules, and new agency policies and procedures. Information presented at the conference is designed to enhance the skills of staff and increase communication within the agency in order to provide excellent service to the injured employees of Texas.

In 2008, the conference will be held in Austin. In 2009, it will be held in San Antonio, which serves as the hub for OIEC's Training Committee.

Training Committee. The agency training committee consists of employees



from all walks of OIEC. It is a multi-program committee created to design an agency training program. This committee will also develop a more comprehensive career path for Ombudsman Assistants and Customer Service Representatives. Additionally, the committee will coordinate Legal Services' Regional Staff Attorney (RSA) training, including but not limited to Practical Skills Training. This committee is based out of San Antonio, OIEC's busiest field office.

Capital Asset Strengths and Weaknesses

Approximately 92 percent of OIEC's budget is dedicated to salaries for OIEC staff. OIEC's lean operations budget is a testament to the organization's business efficiencies.

Capital assets are purchased through lapsed salary or provided by TDI if resources are available.

Agency Use of Historically Underutilized Businesses (HUB)

Although OIEC is administratively attached to TDI, which provides purchasing support, OIEC coordinates with TDI regarding procurement of services. OIEC is in compliance with all HUB requirements.

See Appendix I for OIEC's FY 2006-2007 Comparison to Statewide HUB Procurement Goals.

OIEC has contracted with Garza/Gonzalez & Associates to satisfy the agency's audit requirements pursuant to the Texas Audit Act, Chapter 2102 of the Government Code.

OIEC has contracted with other State agencies to fulfill various requirements. The University of North Texas and TDI's Research Evaluation Group assisted

OIEC in completing the agency's customer satisfaction survey required by Government Code §2114. OIEC's interagency contract with the Department of Health and Human Services yielded an efficient use of appropriated dollars to develop comprehensive education and resource materials for injured employees, health care providers, and employers.

Key Organizational Events and Areas of Change and Impact on Organization

Organizational Changes. OIEC has been growing as new Ombudsmen and Customer Service Representatives join the OIEC team. The agency recently reorganized to reflect the agency's changing face and to increase efficiencies in fulfilling OIEC's mandate. The agency added a seventh RSA position to support the seven Ombudsman teams. The RSA addition allows one RSA to support each Ombudsman team. Each Ombudsman team consists of approximately 15 Ombudsmen. A legal assistant position was also created to provide additional legal research support for the agency and to encourage law students to consider a career in workers' compensation and advocacy on behalf of injured employees.

A reporting analyst position was created to ensure the agency keeps abreast of the many reporting requirements and produces meaningful, quality reports for the Legislature, the Governor's Office, the Legislative Budget Board, the State Auditor's Office, and other agencies. OIEC is also working on hiring a permanent part-time internal auditor to identify business improvements to maximize the efficiency of OIEC's operations and to ensure the integrity of services provided in the 25 office across the State.

The General Counsel and Employee Relations positions were eliminated to



free up funds from the Central Office and provide more resources in the field with TDI's creation of an additional field office in FY 2008. The General Counsel functions were combined with the Deputy Public Counsel position while the employee relations functions were absorbed by the Director of Legal Services. These changes permit OIEC to direct additional resources to its efforts to assist, educate, and advocate on behalf of the injured employees of Texas.

Sunset Advisory Commission Review (Sunset Review) in 2011.

Sunset is the regular assessment of the continuing need for a State agency to exist. OIEC's Sunset date was originally set for FY 2009, but was moved to FY 2011 as a result of the 80th Texas Legislature, 2007.

The Sunset process works by setting a date on which an agency will be abolished unless legislation is passed to continue its functions. This creates a unique opportunity for the Legislature to look closely at each agency and make fundamental changes to an agency's mission or operations if needed.

OIEC informally began preparing for Sunset Review in June 2008. OIEC reviewed and analyzed other Sunset Advisory Reports in order to develop a practice model Self-Evaluation Report (SER). Other state's workers' compensation systems and Ombudsman Programs were researched to develop best practices in the industry. OIEC also developed a business plan to serve as a communication tool in preparing for Sunset Review and monitoring the agency's achievements.

OIEC will begin the Sunset Review process in 2009 by developing and submitting an SER to the Sunset Advisory Commission. The SER identifies problems, opportunities, and issues that the agency feels should be

considered in the Sunset review. Sunset staff also solicits input from interest groups and professional organizations, and encourages public input and discussion of agency functions. Staff collects and evaluates information from extensive interviews of agency personnel, performance reports, operational data, and other sources. Once the evaluation phase of the review is completed, Sunset staff publishes a report containing recommendations for statutory change by the Legislature and recommendations for agency management to implement to improve internal operations.

The Sunset Commission conducts a public hearing on each agency under review after publication of the staff report. The public hearing provides an opportunity for Sunset staff to present its recommendations, for the agency to formally respond to the staff recommendations, and for the public to comment on the report and to raise additional policy issues relating to the agency. This allows for broad public input into the Sunset process and begins the Commission's consideration of potential changes to recommend to the Legislature in the form of Sunset legislation.

Results of the Sunset legislation will impact OIEC as of September 1, 2011.

Outreach Efforts. OIEC's outreach efforts are a key element in serving the injured employees in Texas. Since the agency is relatively new (formally established in March, 2006) it has been a continuing effort to inform the public about the services offered to injured employees and other parties in the Texas Workers' Compensation System.

OIEC has participated in 14 presentations, workshops, seminars, speaking engagements, and other forums in FY 2008 in which OIEC staff speaks to workers' compensation system



stakeholders regarding OIEC, its role, and its services. It is anticipated that 11 more will be performed in FY 2008 to meet the target of the output measure: Number of presentations performed by OIEC.

OIEC is currently maximizing outreach efforts to ensure Texans are aware of the public service OIEC provides. OIEC's increased outreach initiatives include:

- 1) comprehensive education and resource materials for injured employees, employers, and health care providers;
- 2) a public service announcement, both in English and Spanish, that encourages injured employees' return to work;
- 3) a dynamic and user-friendly website relaying latest workers' compensation developments that impact injured employees, which is also available for OIEC's Spanish-speaking customers; and
- 4) an aggressive Customer Service initiative whereby injured employees upon reporting a work-related injury are contacted by OIEC in order to educate the customer about their rights and responsibilities in the workers' compensation system and OIEC's services.

In addition, families of work-related fatalities are contacted to inform them of death and burial benefits as well as their local legislative representative to inform them of a work-related fatality among the community.

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 health care providers, and a streamlined website. The endeavors ensure that information is available to injured employees about the claim process and services that OIEC offers.

Use and Anticipated Use of Consultants

OIEC entered into a contract with Garza/Gonzalez & Associates regarding Agency Contract 08-448-01 for internal auditing services in accordance with the Texas Internal Audit Act, Chapter 2102, Texas Government Code. OIEC anticipates that an exceptional item will be requested in its FY 2010-2011 LAR to add quality assurance and audit staff to ensure the integrity of OIEC's services.



Fiscal Aspects

Size of Budget

OIEC's current total budget for the FY 2008-2009 biennium is \$14,335,706. The total expended in FY 2007 was \$4,655,213. The estimated expenditures for FY 2008 is \$7,042,044.

Approximately 92 percent of OIEC's budget is allocated towards salaries. OIEC has no consumables budget.

For the FY 2008-2009 biennium, OIEC was appropriated additional funds of approximately \$1.9 million and 25 FTE's for the purpose of enhancing the Ombudsman Program. The 25 FTE's were transferred from TDI in September, 2007. The additional Ombudsmen allowed OIEC to become involved earlier in the dispute resolution process and allow an injured employee's position to be presented to the opposing party as soon as a dispute arises.

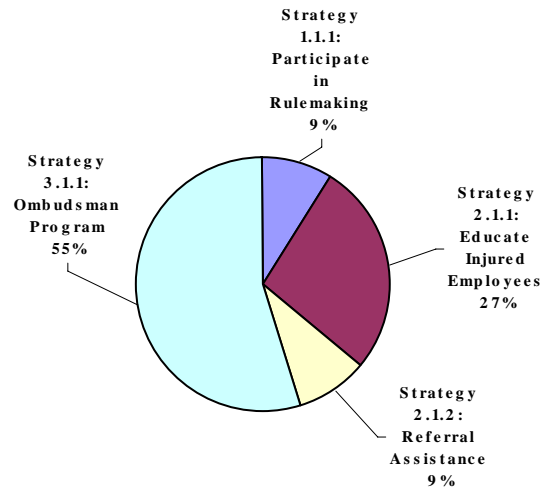
Additionally, for the FY 2008-2009 biennium, OIEC was appropriated approximately \$2.3 million, which represents 33 injured employee customer service representatives and 3 supervising employees to answer OIEC's toll-free injured employee assistance number and provide customer service to all injured employees in support of OIEC becoming a "one-stop-shop" for injured employees. The concept of a "one-stop-shop" agency provides for injured employees to contact a single agency, which reduces confusion by all system participants in a complex workers' compensation system.

These additional positions enhance OIEC's ability to provide general customer assistance and referrals to a greater number of injured employees and educate injured employees regarding their rights and responsibilities within

the Texas Workers' Compensation System.

OIEC believes the additional positions will result in a savings to the State as claims are resolved earlier in the dispute resolution process; thus, reducing the number of proceedings required.

Distribution of Funds by Strategy for the FY 2008-2009



Method of Finance

All appropriations are General Revenue Dedicated from the Texas Department of Insurance Operating Fund Account No. 036.

Budgetary Limitations

The FTE cap for FY 2008-2009 is 183 and the agency anticipates not exceeding this cap.

There are no riders or federal restrictions regarding the appropriations for OIEC.



Statutory Restrictions. The General Appropriation Act appropriated to OIEC any unexpended balances as of August 31, 2008, not to exceed 5 percent for any item of appropriation, for the same purposes for the fiscal year ending August 31, 2009. (GAA)

Degree to Which Current Budget Meets Current and Expected Needs

For the FY 2008-2009 biennium, the budget meets the current needs of OIEC.

Potential Exceptional Item Requests for the FY 2010-2011 Legislative Appropriation Request

In order to better serve the injured employees in Texas, OIEC anticipates requesting the following exceptional items:

Audit and Quality Assurance Staff. Audit staff will ensure that the agency's operations are in good standing with the appropriate auditing practices. Currently, the agency contracts with an outside entity to conduct audits; audit requirements have changed with the growth of the agency. Audit and quality assurance staff is needed to ensure the integrity of OIEC's services in the 25 field offices.

Public Counsel Salary Enhancement. The salary of the Public Counsel should be enhanced due to the responsibilities of the agency, and the requirements of the position of Public Counsel. The Public Counsel is required to be licensed to practice law in Texas, which is not required for most other heads of agencies. Based on the number of employees and the budget of OIEC, the salary of the Public Counsel should be enhanced.

Other Operating Expenses. In order to be more effective in the agency's outreach efforts, OIEC will request an

additional appropriation for these efforts for the FY 2010-2011 biennium. The additional appropriation will enable the agency to participate in public broadcast announcements and develop educational materials and tools that will aid in the attempt to inform the public about the services of the agency, which is currently lacking in accordance with the Research and Evaluation Group Survey.

Medical Consultant. The Medical Consultant will provide assistance to Ombudsman and other OIEC staff regarding medical dispute resolution, medical necessity, medical research, and other related issues.

House Bill (HB) 724, 80th Legislature, 2007, changed the venue for medical disputes by adding an administrative hearing. Ombudsmen are anticipated to assist in the majority of these hearings because attorneys are not compensated for representing injured employees with their medical issues. OIEC believes a medical expert is needed as a resource for medical issues.

South Austin Field Office Staff. TDI created a new field office in FY 2008. As a result, OIEC is likely to request two additional staff which will be located at the new South Austin Field Office will be requested in the FY 2010-2011 biennium. One staff will be a Customer Service Representative, and one will be an Ombudsman.

Capital and/or Leased Needs

This is not applicable because OIEC is administratively attached to TDI. TDI provides field and central office facilities and computer equipment/technology to meet the needs of OIEC. Changes are not anticipated unless there is a statutory change.



Service Population Demographics

Texas population has shown rapid growth, especially in metropolitan areas, diversification, and aging over the past few years and the trend is for it to continue.

Growing Population. Between 2000 and 2007, Texas' population grew at more than double the national rate—14.6 percent versus 7.2 percent.

Dallas-Fort Worth led all other U.S. metro areas in its numerical population gain between 2006 and 2007, adding more than 162,000 residents. The Houston-Sugarland-Baytown, Austin-Round Rock and San Antonio metro areas also were in the top ten for numerical growth. The Austin area also ranked fifth nationwide in its *rate* of growth between 2006 and 2007, expanding by 4.3 percent in that year.

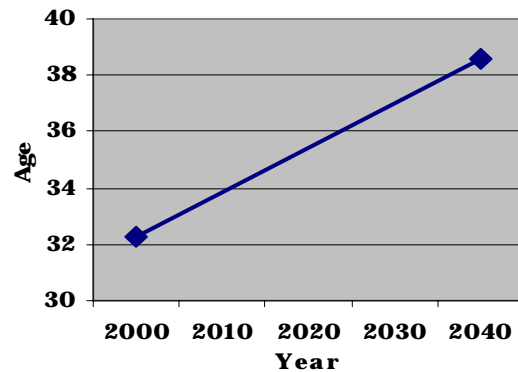
In addition, five of the ten U.S. counties registering the highest numerical growth between 2006 and 2007 are located in Texas. Eleven Texas counties were among the 25 U.S. counties with the highest numerical growth. No other state came close to Texas' performance.⁴

Aging Population. The median age of Anglos in 2000 was 38.0 years, for Blacks 29.6, for Hispanics 25.5 years, and for the Other population 31.1 years.⁵

According to the 2006 Census data, the median age of the Texas population is 33.1 years, versus 36.4 years for the nation as a whole. Texas has the youngest median population by far among the ten most populous states.⁶

However, Texas population will show substantial aging. The median age of the population which was 32.3 in 2000 becomes between 38.1 and 38.6 years of age (depending on the scenario) by 2040. The State's population 65 years of age or older that was about 2.1 million in 2000 could be as high as 8.2 million by 2040 and could increase by more than 295 percent. No other age group shows as large an increase.⁷

Trend in Average Age of Workforce 2000 through 2040



Diverse Population. Non-Anglo populations increase faster and come to form increasing proportions of the total population. Between 2000 and 2040, the Anglo population will increase by between 4.1 and 11.8 percent, while the Black population will increase between 40.5 and 71.0 percent. The Hispanic population will increase between 181.9 and 358.9 percent, and Other population groups will increase between 195.8 and 568.7 percent.

By 2040, the percentage of the population that would be Anglo is estimated to be between 23.9 and 32.2 percent, the percent that would be Black

⁴ Source: Demographic Advantage; Retrieved June 23, 2008. <http://www.texasahead.org/insight/demographics.html>

⁵ Source: New Texas State Data Center Population Projections from The University of Texas at San Antonio. Retrieved April 28, 2008. <http://txsdc.utsa.edu/tpepp/2006projections/summary/>.

⁶ Source: Ibid. Demographic Advantage.

⁷ Source: Ibid. New Texas State Data Center Population Projections. <http://txsdc.utsa.edu/tpepp/2006projections/summary/>.



between 8.0 and 9.5 percent, the percent Hispanic between 52.6 and 59.2 percent, and the percentage in Other population groups between 5.7 and 8.9 percent.⁸

Workforce Demographics. Texas has the fifth-youngest work force in the nation, with a median age of 39.4 years, according to the University of Texas at San Antonio's Institute for Demographic and Socioeconomic Research.

Texas is attracting many of the nation's college-educated workers who choose to relocate within the U.S. In 2006, more than 42,000 college-educated workers moved from other states to join the Texas labor force.⁹

Employment in Texas continues to expand. From April 2007 to April 2008, Texas gained about 262,000 jobs, which is more than the next six top job growth

states combined.¹⁰ OIEC anticipates it will have a larger customer base with Texas' economic growth.

Nearly one-fourth of the top 100 fastest-growing Hispanic companies in the United States are in Texas. There are 240,000 Hispanic-owned businesses statewide that generate more than \$39.5 billion in sales annually.¹¹

As the baby boomers age and the number of older people increases, the demand for healthcare occupations is expected to increase. Personal and home health aides, for example, are projected to gain jobs faster than any other occupation. At the same time, the number of children will increase, although more slowly, and those children will need education and supervision, creating many new jobs for teachers and childcare workers.¹²

⁸ Ibid. New Texas State Data Center Population Projections.
⁹ Source: Demographic Advantage; Retrieved June 23, 2008.
<http://www.texasahead.org/insight/demographics.html>

¹⁰ Source: Comptroller's Economic Outlook; Retrieved June 9, 2008. <http://www.texasahead.org/economy/outlook.html>.

¹¹ Source: Office of the Governor, Press Release dated February 11, 2008. Retrieved June 9, 2008.
<http://www.governor.state.tx.us/divisions/press/pressreleases/PressRelease.2008-02-11.3137>.

¹² Source: Employment Occupational Outlook Quarterly, Spring 2008. Bureau of Labor Statistics. Retrieved June 23, 2008.
<http://www.bls.gov/opus/ooq/ooqhome.htm>.



Texas and the U.S. Economic and Population Forecast (Projected)
Fiscal Years 2009-2013
Fall 2007 Forecast
Sources: Texas Comptroller of Public Accounts; Texas State Data Center

CATEGORY	2008	2009	2010	2011	2012	2013
TEXAS						
Gross State Product (2000 dollars in billions)	\$917.5	\$943.8	\$976.0	\$1,007.7	\$1,039.8	\$1,070.3
Annual percentage change	3.2	2.9	3.4	3.2	3.2	2.9
Personal Income (current dollars in billions)	928.3	980.3	1038.6	1096.1	1156.7	1215.6
Annual percentage change	5.4	5.6	6.2	6.2	6.7	6.8
Nonfarm Employment (in thousands)	10432.7	10620.0	10842.0	11038.8	11219.4	11372.1
Annual percentage change	2.0	1.8	2.1	1.8	1.6	1.4
Unemployment Rate (percentage)	4.7	4.9	4.9	4.9	4.8	4.9
Texas Exports (in billions)	184.3	202.4	219.2	235.20	251.90	269.0
Resident Population (in thousands)	24,158.2	24536.1	24905.5	25263.8	25617.4	25962.2
Annual percentage change	1.6	1.6	1.5	1.4	1.4	1.3
Resident Population 17 and under (in thousands)	6,107.0	6,117.5	6,127.1	6,137.1	6,150.2	6,165.5
Annual percentage change	.2	.2	.2	.2	.2	.2
Resident Population 65 and over (in thousands)	2314.7	2400.1	2458.4	2511.8	2608.8	2707.3
Annual percentage change	2.4	2.5	2.4	2.2	3.9	3.8
U.S.						
Gross Domestic Product (U.S. 2000 dollars in billions)	\$11,713.0	\$12,033.9	\$12,379.2	\$12,716.4	\$13,058.8	\$13,366.7
Annual percentage change	2.0	2.7	2.9	2.7	2.7	2.4
Consumer Price Index (1982-84=100)	210.0	213.5	217.6	221.6	225.5	229.5
Annual percentage change	2.3	1.6	1.9	1.8	1.8	1.8
Prime Interest Rate (percentage)	7.3	7.4	7.8	7.8	7.8	7.7



Technological Developments

OIEC is administratively attached to TDI, and TDI provides information technology services to OIEC. Services include voice and data connectivity for field and Central Office staff including refreshing obsolete computer equipment, improved office software enhancements, and workers' compensation-related applications (TXCOMP and COMPASS).

TDI performs information resource management duties for OIEC and acts as liaison to the Department of Information Resources (DIR), and other oversight agencies on issues related to automation. This includes responsibility for implementation of major projects including:

- (1) coordinating with the Quality Assurance Team (QAT);
- (2) ensuring that TDI's information technology/information resources (IT/IR) policies and procedures are followed;
- (3) providing direction, guidance, and assistance on automation; and
- (4) working with OIEC to prioritize the use of TDI information resources according to approved strategic and operational plans.

TDI also provides OIEC with a single point of contact for ITS related issues; tier one troubleshooting; and coordinates and distributes trouble tickets to the tier two and three support sections while providing problem-tracking to resolution of ITS issues.

TDI provides infrastructure support to OIEC including:

- (1) maintaining the agency's Enterprise computing platforms;
- (2) ensuring the agency's infrastructure and networked computer systems, including Local Area Networks (LAN), Wide Area Networks (WAN), and server-

based software, such as e-mail, are fully operational;

- (3) providing capacity planning;
- (4) protecting the agency against intrusion attempts and viruses on the agency's networks, Web server, and e-mail;
- (5) monitoring and updating protection software;
- (6) verifying with the cooperation of OIEC staff that a current disaster recovery plan for TDI's infrastructure and all OIEC offices are in place and functional through a process of technical planning and periodic testing;
- (7) providing file/data backups and recovery, including periodic testing and continuous monitoring of the backup processes; and
- (8) monitoring systems for the purpose of disaster recovery to ensure TDI's infrastructure is current and functional.

OIEC created a disaster recovery plan that will be implemented in concert with TDI's disaster recovery plan.

Although TDI provides internet and intranet services for OIEC, the websites are regularly maintained by OIEC staff. OIEC's intranet website provides OIEC staff a resource to learn about other program areas within the agency, updates on new or revised policies and procedures, and general information that allows staff to do the best job they can.

OIEC's internet is available for customers to learn about the workers' compensation system and services provided by OIEC. An online complaint form is available for those who want to file a complaint, and OIEC recently posted a customer service survey that will provide feedback to OIEC to enable the agency to meet the needs of the customers.



Economic Variables

With the average regular gasoline prices hovering around \$4.00 per gallon, all Texans are experiencing radical changes in their lives. Increasing prices of grocery items and other necessities as a result of the higher gas prices make even a trip to the grocery store a burden.

Energy use historically has been tied to population and economic growth. Texas' population is expected to continue increasing for decades to come, and our economic growth will depend on the availability of energy.¹³

Thanks to its history as a leading energy producer, Texas is blessed with an abundance of technical, legal, financial and research expertise that can be deployed to meet the challenges of providing energy for its growing population and economy.¹⁴

Exports are extremely important to the Texas economy. Texas exports have achieved four consecutive years of double-digit growth and now account for 15 percent of Texas' gross domestic product (GDP), the highest share of any state. Today, Texas leads the country in export trade and accounts for 14 percent of all U.S. exports.

Texas has emerged as a leading exporter in high-tech manufacturing, including computer and electronics manufacturing. Twenty-six percent of all export-related jobs are in computer and electronics equipment manufacturing, the most skill-intensive work associated with exports. This figure compares to 16 percent for the nation as a whole.¹⁵

¹³ Source: The Energy Report 2008, Comptroller of Public Accounts. Last visited June 12, 2008.

<http://www.window.state.tx.us/specialrpt/energy/>

¹⁴ Ibid. The Energy Report 2008.

¹⁵ Source: Texas in Focus: As statewide View of Opportunities, Comptroller of Public Accounts. Retrieved April 28, 2008. <http://www.window.state.tx.us>.

As the Texas economy continues to diversify, it will increasingly mirror the U.S. economy, although it has fared better compared to the country during a period of rising energy prices. The Comptroller of Public Accounts office expects the growth in Texas GDP to slow to 3.2 percent for 2007, 3 percent in 2008 and 3 percent in 2009. The outlook in Texas is largely positive, despite this expected slowdown.¹⁶

Agency Response to Changing Economic Conditions

One of the ways OIEC is responding to the high gas prices is to allow employees to work flexible schedules. One example of a flexible work schedule is where the employee works 4 days a week at 10 hours a day. OIEC also allows for a flexible 8-hour day, where the employee may work 7:00 am to 4:00 pm or 9:00 am to 6:00 pm. Flexible schedules allow an employee to choose the best time of day to drive to work, such as when the traffic is lighter.

OIEC also encourages carpooling and has forwarded information to staff regarding where to find cheaper gasoline and various ways to save money in these difficult economic conditions.

Other than walk-ins and administrative proceedings, OIEC conducts a lot of business through telephone contact, to lessen the need for an injured employee to travel. Throughout FY 2008, OIEC has assisted almost 120,000 injured employees by telephone.

OIEC also offers information on its website or by electronic means to make it easier for injured employees to learn about the workers' compensation system.

¹⁶ Ibid. Texas in Focus: As statewide View of Opportunities.



Impact of Federal Statutes/Regulations

This section is not applicable to OIEC. Currently, there are no Federal Statutes/Regulations that impact OIEC operations; however, the topic of National Health Care is being discussed, which may have an impact on State workers' compensation insurance.

Other Legal Issues

Impact of Anticipated State Statutory Changes

There are no statutory changes anticipated that would impact the agency.

Advocacy on Behalf of Injured Employees. OIEC has an obligation to protect the interests of injured employees as a class. This requires that OIEC give thorough and thoughtful comments to the rules proposed by TDI. OIEC also makes legislative recommendations to protect the interests of injured employees and determines whether there are issues pending before either the Texas appellate courts or the Supreme Court where OIEC needs to serve as a voice for the injured employees of Texas.

As a result of OIEC's participation in the rulemaking process in fiscal year 2008, 75% of adopted workers' compensation rules have been changed for the benefit of injured employees in Texas.

Amicus Curiae Briefs. In September 2006, OIEC filed an *Amicus Curiae* Brief in Opposition to a Petition for Review with the Texas Supreme Court in *Lockheed Martin Corp. v. Eunice Alexander*, Case No. 06-0299. OIEC requested that the Texas Supreme Court deny the petition for review because the Second Court of Appeal had correctly interpreted the waiver provision of Labor

Code § 409.021(c). The petitioner had requested that the Supreme Court grant the petition and require that an injured employee prove that an injury occurred in the course and scope of employment, in addition to establishing coverage under a workers' compensation insurance policy and damage or harm to the physical structure of his or her body that the injured employee claimed was caused at work. OIEC argued that if the petitioner's argument were to prevail at the Texas Supreme Court, it would have the effect of judicially repealing Labor Code § 409.021(c). On December 1, 2006, the Texas Supreme Court denied the petition for review. A Motion for Rehearing was filed and on February 2, 2007, the Texas Supreme Court denied rehearing.

On February 29, 2008, OIEC filed a second *Amicus Curiae* Brief in Opposition to Specific Portions of the Petition for Review, with the Texas Supreme Court in *Bison Building Material, Ltd. v. Lloyd Aldridge*, Case No. 06-1084. OIEC requested that fair notice, conspicuousness, and express negligence doctrines be applied to post-injury waivers executed by injured employees in non-subscriber cases just as they apply to pre-injury waivers executed by employees of non-subscribers. The petition for review in this case remains pending at the Texas Supreme Court.



Impact of Current and Outstanding Court Cases

Cause No. 05-0272: *Entergy Gulf States, Inc., Petitioner v. John Summers, Respondent* in the Supreme Court in Texas.

Issue: John Summers sued Entergy Gulf States, Inc. for injuries he sustained while working at Entergy's Sabine Station plant as an employee of International Maintenance Corp. (IMC). IMC had contracted with Entergy to perform construction and maintenance on Entergy's premises. This contract refers to IMC as an "independent contractor" and "contractor," while referring to Entergy and its affiliates as "Entergy Companies." The portion of the contract defining IMC as an independent contractor specifies that this language should not be construed to bar Entergy from raising the "Statutory Employee" defense. Entergy later sent IMC a letter, which included an addendum to the contract, providing that the parties would recognize Entergy as the statutory employer of the IMC employees (while IMC would remain the "direct employer") in order to take advantage of a Louisiana law that shields statutory employers from tort liability.

Entergy also agreed to provide workers' compensation insurance to IMC's Sabine plant employees in exchange for a lower contract price. Entergy obtained an insurance policy and paid the premiums. While this policy was in effect, Summers was injured at the Sabine plant. He applied for and received benefits under the policy, then sued Entergy for negligence. Entergy moved for summary judgment, arguing that it was a general contractor, and thus a deemed employer shielded from Summers's suit under the Texas Workers' Compensation Act, as now codified in the Texas Labor Code. The district court agreed and granted

summary judgment in Entergy's favor. The court of appeals reversed.¹⁷

Status: Response to Motion for Re-Hearing has been filed as of March 11, 2008.

Impact: If the judgment stands in Entergy's favor, the definition of an employer would change in the workers' compensation system.

Cause No. 06-C4-153198: *John Marvin Clasby, Sr. v. Texas Workers' Compensation Commission, Appeals Panel, Ellen Vannah, CCH Officer Robert Potts, Texas Dept. Ins. Norman Darwin, TDI. OIEPC*; in the 240th Judicial District Court of Fort Bend County, Texas.

Issue: Various issues.

Status: The District Court has dismissed with prejudice all claims against OIEC and the Public Counsel.

¹⁷Source: In the Texas Supreme Court. On Petition for Review from the Court of Appeals for the Ninth District of Texas. <http://www.agctbb.org/Entergy%20v.%20John%20Summers.htm>. Last visited July 8, 2008.



Self-Evaluation and Opportunities for Improvement

OIEC began its third year as a functioning agency on March 1, 2008, and it has matured into an agency well qualified to fulfill its statutory mandates.

New Employees on Board in FY 2008. The 80th Texas Legislature, 2007, transferred 25 employees (effective September 1, 2007) from TDI to OIEC to augment the Ombudsmen Program.

The 25 transferees from TDI entered service with OIEC as Ombudsmen Associates and began a year-long training program at the end of which they will have earned their type 03 workers' compensation adjustor's licenses, and they will be reclassified as Ombudsmen I.

An additional 36 Customer Service Representative (CSR) positions were appropriated to OIEC on September 1, 2007 so that OIEC would be able to provide "one-stop-shop" convenience to injured employees who had little understanding of the intricacies of the workers' compensation claim process.

Agency Reorganization Resulting from Program Evaluation. After careful evaluation, OIEC was reorganized to better align itself with its mission. More information on this reorganization can be found on page 16 of this report.

A current agency organizational chart is located in Appendix B.

Sunset Review Evaluation and Preparation Plan. OIEC's Sunset date was originally set for FY 2009, but was moved to FY 2011 as a result of the 80th Texas Legislature, 2007.

OIEC informally began preparing for Sunset Review in June 2008. OIEC reviewed and analyzed other Sunset

Advisory Reports in order to develop a practice model Self-Evaluation Report. Other State's Workers' Compensation systems and Ombudsman Programs were researched to develop best practices in the industry. OIEC also developed a business plan to serve as a communication tool in preparing for Sunset Review and monitoring the agency's achievements.

OIEC will begin the Sunset Review process in 2009 by developing and submitting a Self-Evaluation Report (SER) to the Sunset Advisory Commission.

Business Plan Created. A business plan was created in FY 2008 to provide an operational road map for achieving agency goals, consistent with its enabling statute, mission, strategic planning goals, and strategies.

The 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.

A copy of the agency's business plan can be found in Appendix H.

Access Plan Created for Non-English Speakers. Pursuant to Texas Labor Code §404.005(a), OIEC shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to OIEC's programs.

OIEC provides outreach and information materials for injured employees and



employers. All literature and materials are available in Spanish and other languages upon request.

Other resources are also available to members of the non-English speaking public. OIEC's toll free number (1-866-EZE-OIEC • 1-866-393-6432) provides assistance to callers in both English and Spanish. Also, OIEC's website (www.oiec.state.tx.us) is available in both English and Spanish and may be used as a helpful resource.

OIEC has 25 field offices throughout the State to service the needs of injured employees. A majority of these offices, specifically, 88% of the field offices, have OIEC staff that is able to provide personal assistance in Spanish. Almost half of the ombudsmen speak Spanish and are available for non-English speaking injured employees.

OIEC provides interpreter services for non-English speakers through a State employee or a private provider. To request interpreter services, contact TDI Customer Services at (512) 804-4636 or 1-800-372-7713. Interpreter services are also available for injured employees in various stages of the workers' compensation dispute resolution process. OIEC is in compliance with Texas Labor Code §404.005(a) and is committed to making information and services available to Texans who speak languages other than English. Further, OIEC is committed to continue efforts to improve and expand its offerings to non-English speakers in the State.

Rights and Responsibilities Publication Revised. OIEC revised its educational publication entitled "Notice of Injured Employee Rights and Responsibilities in the Texas Workers' Compensation System" (Rights and Responsibilities). OIEC's Rights and Responsibilities is designed to provide injured employees with necessary

information upon sustaining a work-related injury. OIEC considers the Rights and Responsibilities a key tool in its efforts to fulfill the agency's mission to assist, educate, and advocate on behalf of injured employees. The publication was sent to approximately 200,000 injured employees during the FY 2007.

OIEC revised the publication to keep injured employees abreast of the recent workers' compensation laws passed during the 80th Legislative Session. Changes to the publication include more information about choosing a treating doctor in a workers' compensation health care network, obtaining medical treatment if the employer is a political subdivision, and the removal of the Approved Doctor List.

Selected FY2008 Outcome Measure Results. As a result of OIEC's participation in the rulemaking process in fiscal year 2008, 75% of adopted workers' compensation rules have been changed for the benefit of injured employees in Texas. OIEC had projected a target of 70%. OIEC analyzes every workers' compensation rule that is proposed; however, if the rule does not include issues that affect injured employees, OIEC does not submit comments.

OIEC had projected to educate 75% of injured employees about their rights and responsibilities in FY 2008; however, with the additional customer service positions and initiatives, OIEC has surpassed the target and has educated 96% of the injured employees in FY 2008.

Forty-two percent of the issues raised at contested case hearings where the injured employee prevailed when assisted by an Ombudsman is right on target with the agency's projected performance.



Internal Audit Results. OIEC contracted with Garza/Gonzalez & Associates regarding Agency Contract 08-448-01 for internal auditing services in accordance with the Texas Internal Audit Act, Chapter 2102, Texas Government Code. An internal audit was conducted on the Payroll and Human Resources Areas of OIEC, its compliance with applicable State requirements, and established policies and procedures for the year ended August 31, 2008.

Since OIEC is administratively attached to TDI, the audit was focused on TDI's and OIEC's policies and procedures. The results of the audit disclosed that such controls were adequate and no instances of noncompliance were noted; however, certain matters were noted that are opportunities for strengthening internal controls and operating efficiency, and complying with OIEC's established policies and procedures. OIEC will work with TDI staff to ensure full compliance with State and federal laws and to create business efficiencies where appropriate.

Benchmarking Efforts. OIEC is a member of the International Association of Industrial Accident Boards and Commissions (IAIABC). The IAIABC is an association of government agencies that administer and regulate their jurisdiction's workers' compensation acts. Along with these government entities, various private organizations involved in the delivery of workers' compensation coverage and benefits participate in the IAIABC. Since its inception in 1914 the IAIABC has worked to improve and clarify laws, identify model laws and procedures, develop and implement standards, and provide education and information sharing. OIEC shares "Best Practices" with the IAIABC and incorporates other states' best practices that would enhance the services provided to the injured employees of Texas.

Customer Service On-line Survey. In an effort to measure and continually improve the service that OIEC provides to its customers, OIEC has posted the "2008 Customer Service Survey" online. This survey will be available to all customers who have contact with OIEC and will measure the quantity and quality of service it provides.

Policy Development Program. OIEC's Policy Development Program was initiated in an effort to better communicate and receive ideas from all employees. Recognizing the value and ideas of each employee, this program was designed to serve as a channel of communication for "great ideas."

While participation in this program is optional, all OIEC employees are encouraged to submit their ideas on how to improve OIEC, OIEC's policies or procedures, or work environment. OIEC's executive management team review the ideas or recommendations submitted monthly. Confidentiality of the employee who submitted the policy recommendations is being provided to encourage all OIEC employees to participate in providing suggestions to improve our agency.

Outreach Efforts. OIEC's outreach efforts are a key element in serving the injured employees in Texas. Since the agency is relatively new (formally established in March, 2006) it has been a continuing effort to inform the public about the services offered to injured employees and other parties in the Texas Workers' Compensation System.

OIEC has participated in 14 presentations, workshops, seminars, speaking engagements, and other forums in FY 2008 in which OIEC staff speaks to workers' compensation system stakeholders regarding OIEC, its role, and its services. It is anticipated that 11 more will be performed in FY 2008 to



meet the target of the output measure: Number of presentations performed by OIEC.

OIEC is currently maximizing outreach efforts to ensure Texans are aware of the public service OIEC provides. OIEC's increased outreach initiatives include:

- 1) comprehensive education and resource materials for injured employees, employers, and health care providers;
- 2) a public service announcement, both in English and Spanish, that encourages injured employees' return to work;
- 3) a dynamic and user-friendly website relaying latest workers' compensation developments that impact injured employees, which is also available for OIEC's Spanish-speaking customers; and
- 4) an aggressive Customer Service initiative whereby injured employees upon reporting a work-related injury are contacted by OIEC in order to educate the customer about their rights and responsibilities in the workers' compensation system and OIEC's services. In addition, families of work-related fatalities are contacted to inform them of death and burial benefits as well as their local legislative representative to inform them of a work-related fatality among the community.

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 health care providers, and a streamlined website. The endeavors ensure that information is available to injured employees about the claim process and services that OIEC offers.

Medical Dispute Resolution. House Bill 724 (Texas Legislature, Regular Session, 2007) changed the process to provide parties in a medical necessity or medical fee dispute an opportunity to administratively appeal a medical dispute resolution decision to either a contested case hearing or the State Office of Administrative Hearings (SOAH) based on the amount in controversy.

An appeal to a contested case hearing at TDI is allowed for retrospective medical necessity disputes where the amount billed does not exceed \$3,000, medical fee disputes in which the amount of reimbursement sought does not exceed \$2,000, and prospective and concurrent medical necessity disputes. An appeal to SOAH is appropriate for disputes where the dollar amounts in dispute exceed those allowed for a contested case hearing at TDI. This statutory change became effective September 1, 2007, and injured employees are requesting Ombudsman assistance in these cases. The Ombudsmen have received extensive training on these new processes and are ready and able to assist.

OIEC has been actively working with TDI to simplify the complex administrative dispute resolution process in the workers' compensation system. OIEC believes that a streamlined process will be more efficient for all stakeholders, particularly injured employees. OIEC also believes a simpler process will provide more participation and comprehension for all injured employees of Texas. OIEC and TDI will likely propose a joint legislative recommendation for a streamlined dispute resolution process in each agency's respective legislative report.

Commitment to Open Government. In an effort to promote better communication internally and externally, OIEC has made or will make in the near



future the following information available on its website:

1) OIEC Business Plan -- to provide an operational road map for achieving agency goals, consistent with its enabling statute, mission, strategic planning goals, and strategies to internal and external customers. The 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. A copy of the agency's business plan can also be found in Appendix H.

2) Organizational Chart -- to provide internal and external customers a view of the organization of agency staff. OIEC's Organization Chart can also be found in Appendix B.

3) Budget – to provide internal and external customers a view of the agency's budget and how taxpayer's money is spent.

Providing a One-Stop-Shop. As mentioned earlier in this plan, 36 Customer Service Representative (CSR) positions were appropriated to OIEC on September 1, 2007 so that OIEC would be able to provide "one-stop-shop" customer service. The concept of a "one-stop-shop" agency provides for injured employees to contact a single agency, which reduces confusion by all system participants in a complex workers' compensation system. In an effort to provide this convenience to injured employees, OIEC has been coordinating with TDI to separate the duties of OIEC CSR staff and TDI's customer assistance staff in order to provide this "one-stop-shop" convenience. OIEC CSR staff provides advocacy, assistance, and education about the workers' compensation system while TDI staff process official and regulatory actions.

Referral Services Assistance. OIEC refers injured employees to the Department of Assistive and Rehabilitative Services (DARS), the Texas Workforce Commission (TWC), TDI or other social or regulatory services, such as the Health and Human Services Commission (HHSC) or licensing boards, to assist injured employees with:

- 1) finding employment,
- 2) training opportunities,
- 3) returning to work,
- 4) filing complaints with appropriate licensing boards or other regulatory agencies,
- 5) obtaining financial assistance, and
- 6) reporting alleged administrative violations.

DARS and TWC attend OIEC's Education Conference to ensure efficiencies in the referral process. There is also a Memorandum of Agreement (MOA) between OIEC, TDI, and DARS to ensure the most effective referral process.

OIEC also makes referrals to the State Bar for assistance in finding legal representation of an injured employee, for instance, district court cases, where an attorney is critical and the Ombudsman are not permitted to provide assistance.

In FY 2008, OIEC has assisted almost 1,000 injured employees with referrals to other agencies, social, and regulatory services.

Field Office Staffing. In an effort to provide the best customer service and assistance to all injured employees throughout Texas, it is essential that OIEC staff is located in each field office. OIEC is anticipating that an exceptional item will be requested in the FY 2010-2011 Legislative Appropriation Request that includes one Ombudsman position, and one Customer Service Representative to be located in the new



South Austin field office to provide this service.

Survey of Organizational Excellence. At the beginning of calendar year 2008, OIEC employees were asked to participate in the Survey of Organizational Excellence. The survey provides information about the employees' perceptions of the effectiveness of the agency, and the employees' satisfaction with the agency. The survey is provided by the Organizational Excellence Group, University of Texas School of Social Work.

Over 82 percent of OIEC employees responded to the survey, which is considered a high response rate.

Since the 2008 survey is the first survey in which OIEC has participated, it represents the benchmark in which future surveys will be based.

Strengths. According to the survey, OIEC employees perceive the agency:

- is able to relate its mission and goals to environmental changes and demands;
- delivers quality service to its clients;
- is strong in its use of tools and processes for external communication;
- has a relatively low level of perceived "burnout" which can negatively influence an organization's performance; and
- permits employees to have some control over their jobs and the outcome of their efforts.

Weaknesses. Some areas the agency will strive to improve based on survey results which suggest a need for improvement include:

- Fair Pay
- Physical Environment
- Benefits

Compared to employees in organizations of similar size or mission OIEC has slightly more favorable results. Additional information regarding the Survey of Organizational Excellence can be found in Appendix G.



AGENCY GOALS

Goal 1 -- To assist injured employees in the workers' compensation system and protect their rights.

Goal 2 -- To educate injured employees about their rights and responsibilities and improve their ability to effectively navigate through the workers' compensation system.

Goal 3 -- To advocate on behalf of injured employees as a class to ensure that the workers' compensation statute and rules protect their rights.



OBJECTIVES AND OUTCOME MEASURES

Objective 1.1 -- To provide assistance to 100% of unrepresented injured employees requesting assistance through 2011.

1.1 oc 1 Percentage of disputes resolved by the Office of Injured Employee Counsel prior to holding a Texas Department of Insurance administrative dispute resolution proceeding

1.1 oc 2 Percentage of Texas Department of Insurance administrative dispute resolution proceedings in which an Ombudsman Assisted an unrepresented injured employee

1.1 oc 3 Percentage of Issues Raised at Contested Case Hearings where the Injured Employee Prevailed When Assisted by an Ombudsman

1.1 oc 4 Percentage of Issues Raised on Appeal where the Injured Employee Prevailed When Assisted by an Ombudsman

Objective 2.1 -- To increase the knowledge of 100% of injured employees contacted about their rights and responsibilities through 2011.

2.1 oc 1 Percentage of injured employees educated about their rights and responsibilities in the workers' compensation system

Objective 3.1 -- To advocate on behalf of injured workers as a class in 100% of proposed workers' compensation statutory changes and rules that have an impact on the class through 2011.

3.1 oc 1 Percentage of adopted workers' compensation rules analyzed by the Office of Injured Employee Counsel

3.1 oc 2 Percentage of adopted workers' compensation rules in which the Office of Injured Employee Counsel participated

3.1 oc 3 Percentage of adopted workers' compensation rules changed for the benefit of injured employees as a result of the Office of Injured Employee Counsel participation



STRATEGIES and OUTPUT, EFFICIENCY, and EXPLANATORY MEASURES

Strategy 1.1.1 -- Prepare unrepresented injured employees and assist them in Texas Department of Insurance administrative dispute resolution proceedings.

Output Measures

1.1.1 op 1 Number of disputes resolved by the Office of Injured Employee Counsel prior to holding a Texas Department of Insurance administrative dispute resolution proceeding

1.1.1 op 2 Number of injured employees prepared for a Texas Department of Insurance administrative dispute resolution proceeding by an ombudsman

1.1.1 op 3 Number of Texas Department of Insurance administrative dispute resolution proceedings in which the ombudsman assisted the injured employee

1.1.1 op 4 Number of assists a regional staff attorney provides to an ombudsman

Efficiency Measures

1.1.1 ef 1 Average number of days from the date a benefit review conference is scheduled to the date of first contact with an injured employee by an ombudsman

1.1.1 ef 2 The average number of days from the date a contested case hearing is scheduled to the date of the first contact with an injured employee by an ombudsman

Explanatory Measures

1.1 ex 1 Estimated average dollar amount saved per injured employee when assisted by an ombudsman in a Texas Department of Insurance administrative dispute resolution proceeding

Strategy 2.1.1 -- Provide injured employees with information and their rights and responsibilities in the workers' compensation system.

Output Measures

2.1.1 op 1 Number of injured employees educated about their rights and responsibilities



2.1.1 op 2 Number of injured employees educated or assisted by telephone by the Office of Injured Employee Counsel

2.1.1 op 3 Number of injured employees assisted at local field offices by the Office of Injured Employee Counsel

2.1.1 op 4 Number of public outreach presentations performed by the Office of Injured Employee Counsel

2.1.1 op 5 Number of referrals to the Department of Assistive and Rehabilitative Services, the Texas Workforce Commission, the Texas Department of Insurance, or other social or regulatory services

Efficiency Measure

2.1.1 ef 1 Average number of days from the date of injury to the date an injured employee is sent their Rights and Responsibilities in the workers' compensation system

Strategy 3.1.1 -- Participate in the workers' compensation rulemaking and legislative process regarding the workers' compensation system on behalf of injured employees.

Output Measures

3.1.1 op 1 Number of adopted workers' compensation rules analyzed by the Office of Injured Employee Counsel

3.1.1 op 2 Number of adopted workers' compensation rules in which the Office of Injured Employee Counsel participated

3.1.1 op 3 Number of adopted workers' compensation rules changed for the benefit of injured employees as a result of the Office of Injured Employee Counsel participation

Explanatory Measure

3.1.1 ex 1 Number of workers' compensation rules adopted




TECHNOLOGY INITIATIVE ALIGNMENT

This section is not applicable to OIEC. OIEC is administratively attached to TDI, and TDI, in cooperation with OIEC, handles all technology issues. Technology initiatives in the Texas Workers' Compensation System may be examined by referring to TDI's Strategic Plan and other State filings.





Appendices



APPENDIX A

Description of the Agency's Planning Process

OIEC's planning process is a progressive aspect of the agency's continuing effort to effectively serve the injured employees of Texas. A management (business) plan was developed as a tool to reach OIEC's goals, performance measures, and will serve as a communication medium to coordinate the agency's programs. The business plan is updated each quarter to reflect changing needs and priorities and identify accomplishments. The agency's most recent business plan can be found in Appendix H.

The five-year strategic plan was developed according to the instructions for preparing and submitting agency strategic plans received from the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GOBPP).

The 2008-2009 budget structure was carefully reviewed and recommendations for changes to the 2010-2011 budget structure were submitted to the LBB and GOBPP on April 16, 2008. OIEC realigned two of its goals to reflect the appropriate priority. The revised structure includes the deletion of measures that are not relevant to the appropriation process, revision of the verbiage of measures for clarity and consistency, and the addition of measures that represent OIEC's overall goals, objectives, and strategies.

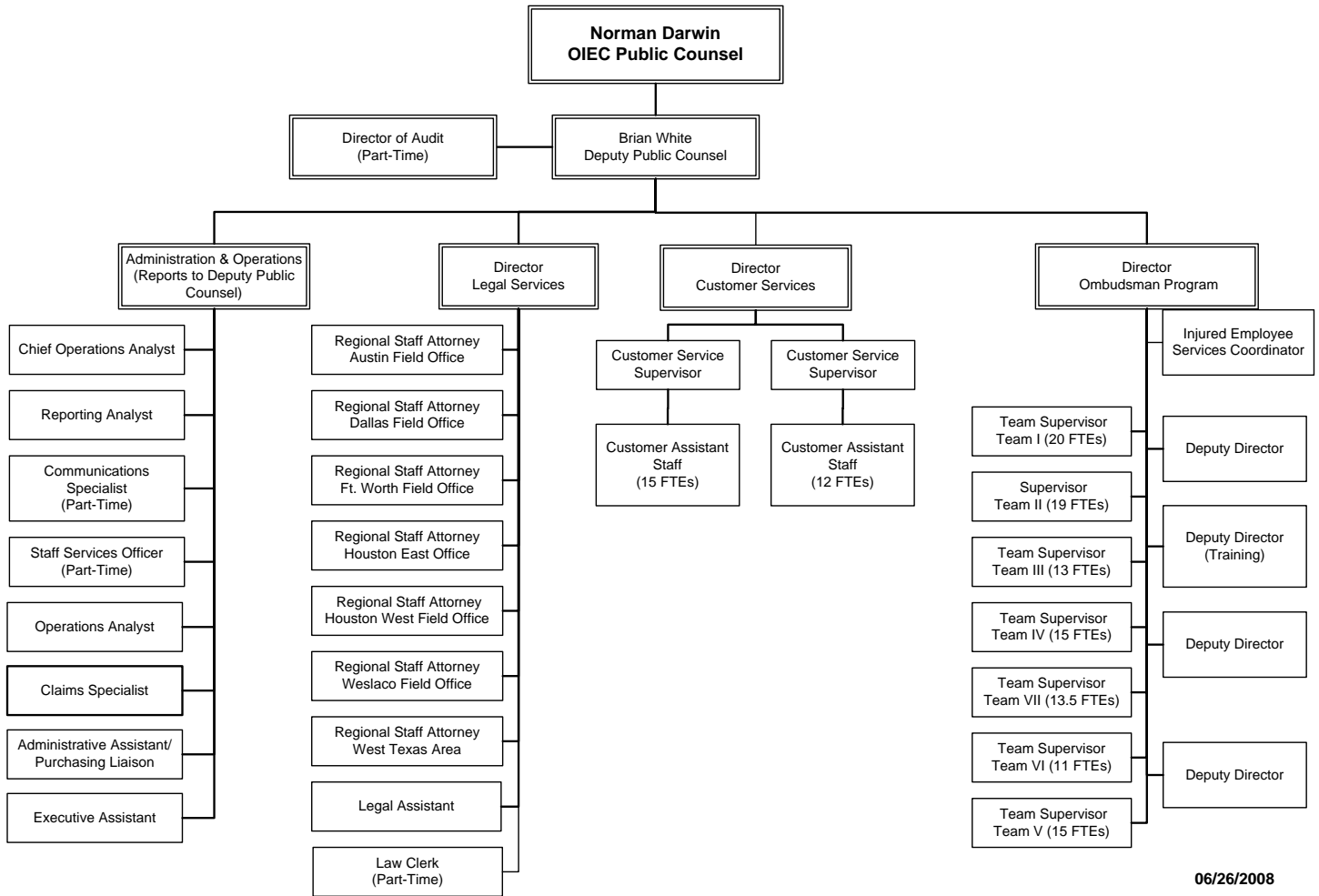
A draft of the FY 2009-2013 Strategic Plan was written and sent to staff for review and revision. The final draft was approved by the Public Counsel and Deputy Public Counsel, and submitted according to the strategic plan distribution list on July 11, 2008.



APPENDIX B

Current Organizational Chart

Office of Injured Employee Counsel



06/26/2008



APPENDIX C

Five-year Projections for Outcomes

OUTCOME MEASURE	2009	2010	2011	2012	2013
1.1 oc 1 Percentage of disputes resolved by the Office of Injured Employee Counsel prior to holding a Texas Department of Insurance administrative dispute resolution proceeding	9%	9%	9%	9%	9%
1.1 oc 2 Percentage of Texas Department of Insurance administrative dispute resolution proceedings in which an Ombudsman assisted an unrepresented injured employee	40%	41%	41%	42%	42%
1.1 oc 3 Percentage of issues raised at Contested Case Hearings where the injured employee prevailed when assisted by an Ombudsman	40%	41%	41%	42%	42%
1.1 oc 4 Percentage of issues raised on appeal where the injured employee prevailed when assisted by an Ombudsman	30%	31%	31%	32%	32%
2.1 oc 1 Percentage of injured employees reached about their rights and responsibilities in the workers' compensation system	95%	95%	95%	95%	95%
3.1 oc 1 Percentage of adopted workers' compensation rules analyzed	100%	100%	100%	100%	100%
3.1 oc 2 Percentage of adopted workers' compensation rules in which the Office of Injured Employee Counsel participated	90%	90%	90%	90%	90%
3.1 oc 3 Percentage of adopted workers' compensation rules changed for the benefit of injured employees as a result of the Office of Injured Employee Counsel participation	80%	80%	80%	80%	80%



APPENDIX D

List of Measure Definitions

Goal 1 -- To assist injured employees in the workers' compensation system and protect their rights.

Objective 1.1 -- To provide assistance to all unrepresented injured employees requesting assistance in each year through 2013.

Outcome Measures

1.1 oc 1 Percentage of disputes resolved by the Office of Injured Employee Counsel prior to holding a Texas Department of Insurance administrative dispute resolution proceeding

Definition: The percentage of disputes resolved by the Office of Injured Employee Counsel before a Texas Department of Insurance administrative dispute resolution proceeding is held.

In this measure, resolved disputes include disputes in which the parties reach an agreement or, due to the dispute, a designated doctor appointment is set.

Disputes are identified by staff in communication with unrepresented claimants or by a party filing a "request for a Benefit Review Conference." Each dispute may consist of up to 6 issues. Issues may include coverage, compensability, average weekly wage, disability, impairment rating, and maximum medical improvement, etc.

Data Limitations: Disputes denied because the parties are not ready to proceed, or withdrawn before an agreement is reached, or a determination is made to proceed to an administrative proceeding are not included in this measure. Additionally, disputes over recommendations for spinal surgery, and legal expenses associated with a dispute are not included.

Data Source: A claims database maintained by the Texas Department of Insurance is used to enter and maintain disputes. Information is entered by Office of Injured Employee Counsel and Texas Department of Insurance staff.

Methodology: Sum the number of indemnity disputes in which the parties reach an agreement; or, due to the dispute, a designated doctor appointment is set during the reporting period to capture total (A). Sum the number of disputes resolved prior to a Benefit Review Conference (BRC) and the number of disputes concluded in BRCs during the reporting period 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.

Purpose: The purpose of this measure is to monitor the Office of Injured Employee Counsel's effectiveness in resolving disputes at the lowest level prior to administrative dispute resolution proceedings.

Calculation Type: C

New Measure: Y

Desired Performance: H

1.1 oc 2 Percentage of Texas Department of Insurance administrative dispute resolution proceedings in which an ombudsman assisted an unrepresented injured employee



Definition: The percentage of Texas Department of Insurance administrative dispute resolution proceedings in which an Ombudsman assisted an unrepresented injured employee. In this measure, a Texas Department of Insurance administrative dispute resolution proceeding is defined as a Benefit Review Conference and/or Contested Case Hearing.

Data Limitations: None

Data Source: An agency claim database maintained by the Texas Department of Insurance is used to capture the proceeding information. Information is entered by Texas Department of Insurance or Office of Injured Employee Counsel staff.

Methodology: Sum the total number of Benefit Review Conferences and Contested Case Hearings during the reporting period to capture total (A). Sum the total number of proceedings where an Ombudsman assisted an unrepresented injured employee during the reporting period 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.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees, through its Ombudsman program, in the Texas Department of Insurance's administrative dispute resolution system.

Calculation Type: N

New Measure: N

Desired Performance: H

1.1 oc 3 Percentage of issues raised at contested case hearings where the injured employee prevailed when assisted by an ombudsman

Definition: The percentage of issues raised at a Texas Department of Insurance Contested Case Hearing where an unrepresented injured employee prevailed when assisted by an 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.

Data Limitations: None

Data Source: A claim database maintained by the Texas Department of Insurance is used to capture the issue/proceeding outcome information. Information is entered by Texas Department of Insurance staff.

Methodology: Sum the total number of issues raised in Texas Department of Insurance Contested Case Hearings where the injured employee was assisted by an Ombudsman during the reporting period to capture value (A). Sum the number of issues where an injured employee prevailed on an issue when assisted by an Ombudsman during the reporting period 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.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees, through its Ombudsman Program, in the Texas Department of Insurance's administrative dispute resolution system.

Calculation Type: N

New Measure: N

Desired Performance: H



1.1 oc 4 Percentage of issues raised on appeal where the injured employee prevailed when assisted by an ombudsman

Definition: The percentage of issues raised on Appeal where the unrepresented injured employee prevailed when assisted by an Ombudsman. One or more disputed issues may be raised on Appeal. Prevailed is determined by counting the number of issues where the Appeals Panel rules in favor of the injured employee.

Data Limitations: None

Data Source: A claim database maintained by the Texas Department of Insurance is used to capture the issue/proceeding outcome information. Information is data entered by Texas Department of Insurance staff.

Methodology: Sum the total number of issues raised on Appeal where the unrepresented injured employee was assisted by an Ombudsman during the reporting period to capture value (A). Sum the number of issues where an injured employee prevailed on an appealed issue when assisted by an Ombudsman during the reporting period 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.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees, through its Ombudsman Program, in the Texas Department of Insurance's administrative dispute resolution system.

Calculation Type: N

New Measure: N

Desired Performance: H

Strategy 1.1.1 -- Prepare unrepresented injured employees and assist them in Texas Department of Insurance administrative dispute resolution proceedings.

Output Measures

1.1.1 op 1 Number of injured employees prepared for benefit review conference by an ombudsman

Definition: The total number of injured employees prepared for a Benefit Review Conference by an Ombudsman during the reporting period. Ombudsmen meet with each injured employee prior to a Benefit Review Conference to ensure proper preparation for the proceeding.

Data Limitations: None

Data Source: A claim database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding preparation information. Information is regularly entered by the Office of Injured Employee Counsel staff.

Methodology: Sum the total number of Benefit Review Conference preparations conducted during the reporting period to capture (A). Submit (A) as a whole number. This calculation excludes counting more than one preparation per dispute and sequence number. Preparation time spent by the Ombudsman without the injured employee physically present is not counted in this measure.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman Program.

Calculation Type: C



New Measure: N

Desired Performance: H

1.1.1 op 2 Number of benefit review conferences with ombudsman assistance

Definition: The total number of Benefit Review Conferences that occurred during the report period where the unrepresented injured employee was assisted by an Ombudsman.

Data Limitations: None

Data Source: A claim database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding attendance information. Information is entered by Division of Workers' Compensation staff.

Methodology: Sum the total number of Benefit Review Conferences during the reporting period where the injured employee was assisted by an Ombudsman, including every Benefit Review Conference attended regardless of dispute or sequence number to capture (A). Submit (A) as a whole number.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman Program.

Calculation Type: C

New Measure: N

Desired Performance: H

1.1.1 op 3 Number of injured employees prepared for a contested case hearing by an ombudsman

Definition: The total number of injured employees prepared for a Contested Case Hearing by an Ombudsman during the reporting period. Ombudsman meets with an injured employee prior to a Contested Case Hearing to ensure proper preparation for the proceeding.

Data Limitations: None

Data Source: A claim database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding preparation information. Information is entered by Office of Injured Employee Counsel staff.

Methodology: Sum the total number of Contested Case Hearing preparations conducted during the reporting period to capture (A). Submit (A) as a whole number. The calculation excludes counting more than one preparation per dispute and sequence number to capture (A). Preparation time spent by the Ombudsman without the injured employee present is not counted in this measure.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman Program.

Calculation Type: C

New Measure: N

Desired Performance: H



1.1.1 op 4 Number of contested case hearings with ombudsman assistance

Definition: The total number of documented Ombudsman attendance at Contested Case Hearings with unrepresented injured employees during the reporting period.

Data Limitations: None

Data Source: A claim database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding attendance information. Information is entered by Division of Workers' Compensation staff.

Methodology: Sum the total number of Contested Case Hearings during the reporting period where the injured employee was assisted by an Ombudsman, including every Contested Case Hearing attended regardless of dispute and sequence number to capture (A). Submit (A) as a whole number.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman Program.

Calculation Type: C

New Measure: N

Desired Performance: H

1.1.1 op 5 Number of injured employees prepared for an appeal by an ombudsman

Definition: The total number of injured employees prepared by an 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 the appellate process.

Data Limitations: None

Data Source: A claim database maintained by the Texas Department of Insurance, Division of Workers' Compensation is used to capture the proceeding preparation information. Information is entered by Office of Injured Employee Counsel staff.

Methodology: Sum the total number of Appeal preparations conducted during the reporting period to capture (A). Submit (A) as a whole number. The calculation excludes counting more than one preparation per dispute and sequence number to capture (A). Preparation time spent by the Ombudsman without the injured employee present is not counted in this measure.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees through its Ombudsman Program.

Calculation Type: C

New Measure: N

Desired Performance: H

1.1.1 op 6 Number of assists a regional staff attorney provides to an ombudsman

Definition: The total number of assists a regional staff attorney provides to an ombudsman. A Regional Staff Attorney assist is defined as a response to an OIEC employee's request for legal assistance. The legal assistance may involve legal consultation or analysis on the workers'



compensation law or may consist of legal research and consultation with an OIEC employee regarding a specific injured employee's claim.

Data Limitations: None

Data Source: A claims database maintained by the Texas Department of Insurance is used to document all assists made by regional staff attorneys to ombudsman. Special code values are used for these assists, and the attorneys enter the code value into that system for each assist.

Methodology: Sum the total number of assists provided by regional staff attorneys to an ombudsman during the reporting period to capture total (A). Submit (A) represented as a whole number.

Purpose: This measure addresses the agency's statutory duty to assign regional staff attorneys to supervise and advise ombudsman through the Ombudsman Program.

Calculation Type: C

New Measure: Y

Desired Performance: H

Efficiency Measures

1.1.1 ef 1 Average number of days from the date a benefit review conference is scheduled to the date of first contact with an injured employee by an ombudsman

Definition: The average number of days between the date a Benefit Review Conference is scheduled and the date an injured employee first meets with an Ombudsman.

Data Limitations: None

Data Source: A claim database maintained by the Texas Department of Insurance is used to document the date a Benefit Review Conference 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 enters when a preparation appointment occurs in the system.

Methodology: The total number of calendar days from the date an injured employee's Benefit Review Conference is scheduled to the date an injured employee first received assistance from an Ombudsman at a preparation appointment during the reporting period to capture total (A). Sum the total number of Benefit Review Conferences scheduled for Ombudsman assistance during the report period to capture total (B). Divide (A) by (B) to determine value (C). Submit (C) represented as a whole number.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees, through its Ombudsman Program, in the Texas Department of Insurance's administrative dispute resolution system. 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.

Calculation Type: N

New Measure: N

Desired Performance: L



1.1.1 ef 2 Average number of days from the date a contested case hearing is scheduled to the date of the first contact with an injured employee by an ombudsman

Definition: The total number of days between the date a Contested Case Hearing is scheduled to the date when an injured employee first meets with an Ombudsman.

Data Limitations: None

Data Source: A claim database maintained by the Texas Department of Insurance is used to document the date a Contested Case Hearing is scheduled and the date a preparation appointment is conducted. Dates are system-generated based on data entered to indicate when a proceeding is set and when a preparation appointment occurs.

Methodology: Sum the total number of calendar days from the date a Contested Case Hearing is scheduled to when the injured employee is assisted by an Ombudsman at a preparation appointment during the reporting period to capture total (A). Sum the total number of Contested Case Hearings scheduled for Ombudsman assistance during the report period to capture total (B). Divide (A) by (B) to determine value (C). Submit (C) represented as a whole number.

Purpose: This measure addresses the agency's statutory duty to assist unrepresented injured employees, through its Ombudsman Program, in the Texas Department of Insurance's administrative dispute resolution system. 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.

Calculation Type: N

New Measure: N

Desired Performance: L

Explanatory Measures

1.1.1 ex 1 Average indemnity cost avoided per injured employee assisted by an ombudsman

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 Texas Department of Insurance for approval for payment. An average of these charges on attorney-assisted cases would presumably be charged to any represented injured employee. The Office of Injured Employee Counsel provides Ombudsman assistance free of charge, and therefore, injured employees assisted by an Ombudsman do not incur potential attorneys' fees, which could then be subtracted from their indemnity benefits.

Data Limitations: Actual attorneys' fees are unknown because such information is not reported to the Texas Department of Insurance. This methodology is actually calculating (estimating) the average indemnity benefits paid to attorneys. It is assumed this is the average cost saved by injured employees accepting ombudsman assistance.

Data Source: An attorney fee system database maintained by the Texas Department of Insurance is used to document the attorneys' fees charged against an injured employee's indemnity benefits. Attorneys enter data online or Texas Department of Insurance staff enters data into the system.

Methodology: Sum the fees approved by the Texas Department of Insurance to be paid to attorneys from indemnity benefits during the reporting period to capture value (A). Sum the number of claims with approved attorney fees during the report period to capture value (B). Divide value (B) by (A) to obtain value (C), which is the amount of attorney's fees an injured employee saved by electing Ombudsman assistance. The calculation excludes cases where attorneys' fees were



approved but no proceedings-related charges were filed or approved and proceeding-related charges if the proceeding was held regarding the issue of attorney fees.

Purpose: This measure addresses the cost savings that the Office of Injured Employee Counsel assisted injured employees experience by using the free services of an Ombudsman and not retaining the services of an attorney.

Calculation Type: N

New Measure: N

Desired Performance: H

Goal 2 -- To increase effective injured employee education regarding their rights and responsibilities, improve their ability to effectively utilize the workers' compensation system, and refer injured employees to local, state, and federal programs offering financial assistance, rehabilitation, and work placement programs, or other social services.

Objective 2.1 -- Increase the knowledge of all injured employees contacted about their rights and responsibilities and to refer injured employees to agencies or service entities when appropriate in each year through 2013.

Outcome Measures

2.1 oc 1 Percentage of injured employees reached about their rights and responsibilities in the workers compensation system

Definition: The percentage of injured employees reached about their rights and responsibilities in the workers compensation system as a result of receiving their Rights and Responsibilities packet.

Data Limitations: None.

Data Source: A claims database is maintained by the Texas Department of Insurance and includes claims reported by the injured employee or insurance carrier on behalf of the employer. The Office of Injured Employee Counsel tracks returned mailings of the injured employee's Rights and Responsibilities packet.

Methodology: Sum the total number of injured employees that were mailed a Rights and Responsibilities packet during the reporting period to capture total (A). Sum the total number of employees reached about their Rights and Responsibilities during the reporting period by capturing the total number of Rights and Responsibilities packets minus those 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.

Purpose: This measure addresses the agency's statutory duty to educate and assist injured employees.

Calculation Type: N

New Measure: N

Desired Performance: H

Strategy 2.1.1 -- Provide injured employees with information about their rights and responsibilities and to refer injured employees to local, state, and federal programs offering financial assistance, rehabilitation, and work placement or social services.



Output Measures

2.1.1 op 1 Number of injured employees reached about their rights and responsibilities

Definition: The total number of injured employees reached about their rights and responsibilities as a result of receiving the injured employee Rights and Responsibilities packet.

Data Limitations: Data included in this measure does not include injured employees in which the Rights and Responsibilities packet was returned to sender.

Data Source: A claims database is maintained by the Texas Department of Insurance and includes claims reported by the injured employee or insurance carrier on behalf of the employer. The Office of Injured Employee Counsel tracks returned mailings of the injured employee's Rights and Responsibilities packet.

Methodology: Sum the total number of employees reached about their Rights and Responsibilities by capturing the total number of Rights and Responsibility packets mailed minus those mailings returned to sender during the reporting period to capture total (A). Submit (A) as a whole number.

Purpose: This measure addresses the agency's statutory duty to educate and assist injured employees.

Calculation Type: C

New Measure: N

Desired Performance: H

2.1.1 op 2 Number of injured employees reached or assisted by telephone

Definition: The total number of injured employees who were reached or assisted personally by telephone or were assisted as a result of a telephone call made by or to the Office of Injured Employee Counsel. This includes calls received on the Office of Injured Employee toll-free number, calls received on any other telephone line that are subsequently transferred to Office of Injured Employee Counsel and calls made by the Office of Injured Employee Counsel to parties on behalf of the injured employee.

Data Limitations: While there is extensive training given regarding tracking such telephone calls, human error may cause this number to be lower than the actual number of telephone calls. An injured employee may be counted more than once in a reporting period.

Data Source: A claims database maintained by the Texas Department of Insurance is used to document all telephone contacts with the Office of Injured Employee Counsel or Texas Department of Insurance staff. Special code values are assigned to the Office of Injured Employee Counsel to log their calls separately from those handled by the Texas Department of Insurance.

Methodology: Sum the total number of contact codes in the Department of Insurance's claim system specific to the Office of Injured Employee Counsel which represents the total number of injured employees during the reporting period to capture total (A). Submit (A) represented as a whole number.

Purpose: This measure addresses the agency's statutory duty to assist injured employees.

Calculation Type: C

New Measure: N

Desired Performance: H



2.1.1 op 3 Number of injured employees assisted at local field offices

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 Office of Injured Employee Counsel employee during the reporting period.

Data Limitations: Staff may not always remember to make an entry so it is possible that this number can be lower than that which actually occurred.

Data Source: A claims database maintained by the Texas Department of Insurance is used to document all assistance provided to a walk-in customer by the Office of Injured Employee Counsel or Texas Department of Insurance staff. Special code values are assigned to the Office of Injured Employee Counsel staff to log their “in- person” assistance separately from those handled by the Texas Department of Insurance.

Methodology: Sum the total number of contact codes in the Department of Insurance’s claim system specific to the Office of Injured Employee Counsel that represents the number of injured employees assisted in-person at a local field office or the Central Office location by the Office of Injured Employee Counsel during the reporting period to capture total (A). Submit (A) represented as a whole number.

Purpose: This measure addresses the agency’s statutory duty to assist injured employees.

Calculation Type: C

New Measure: N

Desired Performance: H

2.1.1 op 4 Number of public outreach presentations performed

Definition: The total number of outreach presentations, workshops, seminars, speaking engagements, or other forums during the reporting period where Office of Injured Employee Counsel staff speaks to workers’ compensation system stakeholders regarding the Office of Injured Employee Counsel, its role, and its services.

Data Limitations: None

Data Source: An agency database is maintained and utilized to track all speaking engagements for the agency. Agency staff enters information on a regular basis.

Methodology: Sum the number of public outreach sessions, presentations, or seminars conducted by the Office of Injured Employee staff during the reporting period regarding the Office of Injured Employee Counsel’s services to capture total (A). Submit (A) represented as a whole number.

Purpose: This measure addresses the agency’s statutory duty to inform the employees, employers, and other system stakeholders regarding the role of the Office of Injured Employee Counsel’s services.

Calculation Type: C

New Measure: N

Desired Performance: H



2.1.1 op 5 Number of referrals to the Department of Assistive and Rehabilitative Services, the Texas Workforce Commission, the Texas Department of Insurance, or other social or regulatory services

Definition: The number of referrals made by the Office of Injured Employee Counsel on behalf of the injured employee. Referrals are made to the Department of Assistive and Rehabilitative Services, the Texas Workforce Commission, the Texas Department of Insurance or other social or regulatory services, such as the Health and Human Services Commission or licensing boards, to assist injured employees with 1) finding employment, 2) training opportunities, 3) returning to work, 4) filing complaints with appropriate licensing boards or other regulatory agencies, 5) obtaining financial assistance, and 6) reporting alleged administrative violations.

Data Limitations: In some cases the injured employee may choose not to contact the entity which is referred by the Office of Injured Employee Counsel.

Data Source: A claims database maintained by the Texas Department of Insurance is used to document all referrals made by Office of Injured Employee Counsel staff. Special code values are used for particular types of referrals.

Methodology: Sum the total number of codes in the Department of Insurance's claim system specific to the Office of Injured Employee Counsel which represents the total number of referrals made during the reporting period to capture total (A). Submit (A) represented as a whole number.

Purpose: This measure addresses the agency's statutory duty to refer injured employees to local, state, and federal financial assistance, rehabilitation, work placement programs, and other regulatory and social services.

Calculation Type: C

New Measure: Y

Desired Performance: H

Efficiency Measure

2.1.1 ef 1 Average number of days from the date of injury to the date an injured employee is sent their rights and responsibilities in the workers' compensation system

Definition: The average number of days between the date an injured employee is injured and the date the injured employee is mailed the Rights and Responsibilities packet.

Data Limitations: The Texas Department of Insurance only creates claims where lost time (greater than one day) has occurred. The Rights and Responsibilities packet is only generated for the claims established with the Texas Department of Insurance and would not represent all workers' compensation claims reported to insurance 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 the Texas Department of Insurance. All of these delays factor into the resulting average in this measure.

Data Source: A claim database maintained by the Texas Department of Insurance is used to capture the injured employee's date of injury and the date the employee is mailed the Rights and Responsibilities packet. The date of injury is either supplied by the injured employee online, the insurance carrier via EDI, or through manual data entry by Texas Department of Insurance staff.

Methodology: Sum the total number of calendar days between the date of injury that is reported for all claims established during the reporting period (using the date of injury field in the claim system) and the date the Rights and Responsibilities packet is mailed to the injured employee during the reporting period to capture total (A). Sum the number of Rights and Responsibilities packets



mailed during the reporting period to capture total (B). Obtain the average days that (B) represents of (A) by dividing (B) by (A) to determine value (C). Submit (C) represented as a whole number. The calculation excludes claims where the packet was returned to sender.

Purpose: This measure addresses the agency's statutory duty to educate injured employees regarding their Rights and Responsibilities in the worker's compensation system.

Calculation Type: N

New Measure: N

Desired Performance: L

Goal 3 -- To advocate on behalf of injured employees as a class to ensure that the workers' compensation statute and rules protect their rights.

Objective 3.1 -- To advocate on behalf of injured workers as a class in all of the proposed workers' compensation statutory changes and rules that have an impact on the class each year.

Outcome Measures

3.1 oc 1 Percentage of adopted workers' compensation rules analyzed

Definition: The percentage of adopted workers' compensation rules, which were analyzed by the Office of Injured Employee Counsel. Analyzed rules include informal and formal rules, excluding repeals, by the Texas Department of Insurance or Office of Injured Employee Counsel, which are reviewed to determine if they affect or have the potential to affect injured employees.

Data Limitations: The rule adoption process may take months to complete. The rule analysis may have occurred in a previous month or year; however, the analysis is not counted until the rule is finally adopted.

Data Source: 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.

Methodology: Sum the total number of workers' compensation rules adopted by the Texas Department of Insurance or the Office of Injured Employee Counsel during the reporting period to capture total (A). Sum the total number of rules analyzed by the Office of Injured Employee Counsel during the reporting period 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.

Purpose: 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.

Calculation Type: N

New Measure: N

Desired Performance: H

3.1 oc 2 Percentage of adopted workers' compensation rules in which the Office of Injured Employee Counsel participated

Definition: The percentage of adopted workers' compensation rules, in which the Office of Injured Employee Counsel provided verbal or written rule recommendations that offer the injured



employee viewpoint to either informal or formal workers' compensation rules, excluding repeals, proposed by the Texas Department of Insurance or Office of Injured Employee Counsel.

Data Limitations: The rule adoption process may take months to complete. Participation (verbal or written rule recommendations) may have occurred in a previous month or year; however, the participation is not counted until the rule is finally adopted.

Data Source: 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.

Methodology: Sum the total number of rules adopted by the Texas Department of Insurance or Office of Injured Employee Counsel during the reporting period to capture total (A). Sum the total number of adopted rules in which the Office of Injured Employee Counsel participated 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.

Purpose: 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.

Calculation Type: N

New Measure: N

Desired Performance: H

3.1 oc 3 Percentage of adopted workers' compensation rules changed for the benefit of injured employees as a result of the Office of Injured Employee Counsel participation

Definition: The percentage of adopted workers' compensation rules changed for the benefit of injured employees as a result of the Office of Injured Employee Counsel's verbal or written rule recommendations that offer the injured employee viewpoint to either informal or formal workers' compensation rules, excluding repeals, proposed by the Texas Department of Insurance or Office of Injured Employee Counsel.

Data Limitations: The rule adoption process may take months to complete. Participation (verbal or written rule recommendations) may have occurred in a previous month or year; however, the participation is not counted until the rule is finally adopted.

Data Source: 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.

Methodology: Sum the total number of rules adopted by the Texas Department of Insurance or Office of Injured Employee Counsel during the reporting period to capture total (A). Sum the total number of adopted rules where the Office of Injured Employee Counsel's recommendations were incorporated into the adopted rule text 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.

Comments that are non-substantive, such as word-smithing recommendations to rules will not be included as a comment or as a credit to the Office of Injured Employee Counsel if incorporated. Rule comments from the Office of Injured Employee Counsel may be accepted in whole or in part by the Texas Department of Insurance 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 as final rule text.



Purpose: 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 the Office of Injured Employee Counsel's involvement in the rulemaking process.

Calculation Type: N

New Measure: N

Desired Performance: H

Strategy 3.1.1 -- Participate in the workers' compensation rulemaking and legislative process regarding the workers' compensation system on behalf of injured employees.

Output Measures

3.1.1 op 1 Number of adopted workers' compensation rules analyzed by the Office of Injured Employee Counsel

Definition: The total number of adopted workers' compensation rules, which were analyzed by the Office of Injured Employee Counsel. Analyzed rules include informal and formal rules, excluding repeals, by the Texas Department of Insurance or Office of Injured Employee Counsel which are reviewed to determine if they affect or have the potential to affect injured employees.

Data Limitations: The rule adoption process may take months to complete. Analysis may have occurred in a previous month or year; however, the analysis is not counted until the rule is finally adopted.

Data Source: An agency database is maintained and utilized to track rule projects and processes for the agency. Agency staff enters information on a regular basis.

Methodology: Sum the total number of workers' compensation rules adopted by the Texas Department of Insurance or Office of Injured Employee Counsel during the reporting period that are analyzed by the Office of Injured Employee Counsel to capture total (A). Submit (A) represented as a whole number.

Purpose: 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.

Calculation Type: C

New Measure: N

Desired Performance: H

3.1.1 op 2 Number of adopted workers' compensation rules in which the Office of Injured Employee Counsel participated

Definition: The number of adopted workers' compensation rules, in which the Office of Injured Employee Counsel provided verbal or written rule recommendations that offer the injured employee viewpoint to either informal or formal workers' compensation rules, excluding repeals, proposed by the Texas Department of Insurance or Office of Injured Employee Counsel.



Data Limitations: The rule adoption process may take months to complete. Participation (verbal or written rule recommendations) may have occurred in a previous month or year; however, the participation is not counted until the rule is finally adopted.

Data Source: 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.

Methodology: Sum the total number of rules adopted by the Texas Department of Insurance or Office of Injured Employee Counsel during the reporting period in which OIEC participated to capture total (A). Submit (A) represented as a whole number.

Purpose: 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.

Calculation Type: C

New Measure: N

Desired Performance: H

3.1.1 op 3 Number of adopted workers' compensation rules changed for the benefit of injured employees as a result of the Office of Injured Employee Counsel participation

Definition: The number of adopted workers' compensation rules changed for the benefit of injured employees as a result of the Office of Injured Employee Counsel's verbal or written rule recommendations that offer the injured employee viewpoint to either informal or formal workers' compensation rules, excluding repeals, proposed by the Texas Department of Insurance or Office of Injured Employee Counsel.

Data Limitations: The rule adoption process may take months to complete. Participation (verbal or written rule recommendations) may have occurred in a previous month or year; however, the participation is not counted until the rule is finally adopted.

Data Source: 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.

Methodology: Sum the number of rules adopted during the reporting period where the Office of Injured Employee Counsel's recommendations were incorporated into the rule text to capture total (A). Submit (A) represented as a whole number.

Comments that are non-substantive, such as word-smithing recommendations to rules will not be included as a comment or as a credit to the Office of Injured Employee Counsel if incorporated. Rule comments from the Office of Injured Employee Counsel may be accepted in whole or in part by the Texas Department of Insurance 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 as final rule text.

Purpose: 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.

Calculation Type: N



New Measure: Y

Desired Performance: H

Explanatory Measure

3.1.1 ex 1 Number of workers' compensation rules adopted

Definition: The total number of workers' compensation informal and formal rules, excluding repeals, adopted by the Texas Department of Insurance or Office of Injured Employee Counsel during the reporting period.

Data Limitations: The rule adoption process may take months to complete; however, the rule is not counted in this measure until it is finally adopted.

Data Source: An agency database is maintained and utilized to track rule projects and processes for the agency. Agency staff enters information on a regular basis.

Methodology: Sum the total number of workers' compensation rules adopted by the Texas Department of Insurance or Office of Injured Employee Counsel during the reporting period to capture total (A). Submit (A) represented as a whole number.

Purpose: This measure represents the total number of workers' compensation rules adopted. Adopted rules may or may not affect injured employees as a class.

Calculation Type: C

New Measure: Y

Desired Performance: H



APPENDIX E

Implementing the Texas Transformation

The 2007 State Strategic Plan for Information Resources Management lays out the statewide objectives that will drive government technology transformation in Texas for the next five years. These objectives encompass managed service delivery, managed supply chain, and security and privacy; technology policy, best practices, and partnerships; and innovative technology solutions that serve Texas citizens and meet state agency core missions.

THE STATE VISION FOR TECHNOLOGY

Texas maximizes its technology investment to deliver optimal services and vital information to improve the safety, welfare, and quality of life for all citizens. Collaborating across public and private sectors, state government implements strategies and solutions to allow each agency to best serve its customers.

Innovation, strategic partnerships, and exemplary customer service form the foundation for achieving the state's technology vision. State government is held accountable for the attainment of this vision by measuring performance and progress against clearly defined outcomes.

As required by the instructions for Preparing and Submitting Agency Strategic Plans for the fiscal years FY 2009-2013, the following responses are provided that relate to the objectives presented in *The Texas Transformation*. See TDI's FY 2009-2013 Strategic Plan for additional information.

MANAGED SERVICE DELIVERY

To increase the quality and consistency of information related to common business functions and processes for better decision-making and improved management of State operations, The Texas Transformation identified the services that will accomplish this objective as Texas Data Center services, TEX-AN communications services, TexasOnline.com, shared applications such as enterprise resource planning, and other statewide collaborative efforts.

- **Question:** Has the agency considered use of managed services in order to focus more on its business needs?

Response: OIEC is administratively attached to TDI; however, Texas Data Center services and TEX-AN communications services and Team for Texas are utilized by the agencies.



MANAGED IT SUPPLY CHAIN

The State is building an IT sourcing infrastructure that drives contracting value and supports an environment of continuous improvement. Further savings will be driven through aggregating specific commodity procurements that satisfy the needs of State agency, public education, and local government customers.

- **Question:** Does the agency leverage and obtain additional value from the Information and Communications Technology (ICT) Cooperative Contracts program; for example, by further negotiating not-to-exceed pricing?

Response: OIEC is administratively attached to TDI, and TDI handles all procurement needs for OIEC.

SECURITY AND PRIVACY

The State Enterprise Security Plan (SESP) establishes well-defined goals and objectives to improve the State’s security posture. The following goals are summarized from the SESP:

- Goal 1: Prevent Cyber Attacks and Incidents against Critical Infrastructure
- Goal 2: Reduce Vulnerability to Cyber Attacks and Other Disruptions
- Goal 3: Respond and Recover to Minimize the Impact of Successful Cyber Attacks and Disruption

Security and Privacy are separate, but closely linked, concepts. Security policy dictates how government will protect personal information from misuse. Privacy policy indicates which information is personal and how government will collect, store, use, disseminate, and dispose of it.

Government agencies face an ongoing challenge to be open and accessible to the public while protecting the privacy of citizens. Sensitive personal information that government collects to provide services must remain private.

- **Question:** Describe the agencies strategies to align with the SESP.

Response: OIEC is administratively attached to TDI and TDI handles all IT issues. OIEC adheres to all TDI information technology policies and procedures.

- **Question:** Describe the agencies policies, practices and programs, implemented or planned, that comply with relevant statutes and administrative rules to ensure the privacy of confidential data. Consider federal privacy requirements (e.g., the Health Insurance Portability and Accountability Act or the Family Educational Rights and Privacy Act) that apply to the agency. List the organizational units (program, offices, IT, legal, etc.) that manage privacy functions. Describe any future plans for improvement.

Response: OIEC has a privacy/security policy on its website and is available to all customers that visit the website. Under Chapter 552 of the Texas Government Code, commonly known as the "Open Records Act", information sent to OIEC by electronic mail is subject to disclosure.



For site management functions, information is collected for analysis and statistical purposes by TDI. TDI provides web site hosting services to OIEC. This information is not reported or used in any manner that would reveal personally identifiable information; and, will not be released to any outside parties unless legally required to do so in connection with law enforcement investigations or other legal proceedings. TDI does not use cookies or web bugs to collect information.

TECHNOLOGY POLICY, BEST PRACTICES, AND PARTNERSHIPS

The shared development of guidelines and practices that improve the use of management and information and communications technology is a key element of the government technology enterprise. The ability to share data and information across all levels of Texas government is a critical component of technology policy.

- **Question:** What current practices or plans are in place to improve usability and searchability of the agency’s Web content?

Response: TDI provides website hosting services to OIEC; however, OIEC regularly updates information on its website to ensure the most current information is available. A customer satisfaction survey is also available on the website for customers to make suggestions for improvement of the usability and searchability of website information.

- **Question:** What current practices or plans are in place to improve life cycle management of agency data and information? Include the agency’s approach and ability to meet future open records and e-discovery requests.

Response: OIEC is administratively attached to TDI, and TDI provides data that may be required for open record requests, when OIEC is not able to obtain the information requested.

- **Question:** Describe agency methods and standards (federal, state, industry), implemented or planned, intended to enhance data sharing (i.e., improve interoperability) with other entities.

Response: OIEC is administratively attached to TDI, and TDI handles all information technology (IT) issues. OIEC adheres to all TDI information technology policies and procedures.

CORE MISSIONS

Agencies can achieve their core missions by aligning appropriate technology solutions with their business functions. Relief from maintenance chores related to keeping government technology up and running can free agencies to focus directly on improving service delivery. Outdated or under-utilized hardware/software increase an organization’s overall cost to manage its technology environment, not only in maintenance fees, but also in problem resolution, routine and system costs.

- **Question:** Does the agency have any plans to simplify or reduce the number of existing software platforms (e.g., operating systems, application development environments, database systems, office suites, other COTS applications)? If no, is



the agency fully leveraging its technology to support both its current and future business environment?

Response: OIEC is administratively attached to TDI, and TDI handles all information technology issues. OIEC adheres to all TDI information technology policies and procedures.

- **Question:** Describe any current or planned activities targeted at reducing the environmental resource consumption of technology equipment (recycling, consolidating, virtualizing, buying energy efficient equipment, etc.).

Response: OIEC is administratively attached to the Texas Department of Insurance (TDI) and TDI handles all information technology issues. OIEC adheres to all TDI information technology policies and procedures.



APPENDIX F

The Office of Injured Employee Counsel (OIEC)

Workforce Plan



As part of the strategic plan required under Texas Government Code, Section 2056.002, each State agency is required to conduct a strategic staffing analysis and develop a workforce plan according to guidelines developed by the State Auditor. Workforce planning is an organized process for:

- Identifying the number of employees and the types of employee skill sets required to meet agency goals and strategic objectives; and
- Developing a plan of action to ensure that the appropriate workforce will be available to provide quality services to the citizens of Texas.



I. OVERVIEW

OIEC Mission

To assist, educate, and advocate on behalf of the injured employees of Texas

OIEC Strategic Goals and Objectives

Goal 1 -- *To assist injured employees in the workers' compensation system and protect their rights.*

Objective 1.1 -- *To provide assistance to 100% of unrepresented injured employees requesting assistance through 2011.*

Goal 2 -- *To educate injured employees about their rights and responsibilities and improve their ability to effectively navigate through the workers' compensation system.*

Objective 2.1 -- *To increase the knowledge of 100% of injured employees contacted about their rights and responsibilities through 2011.*

Goal 3 -- *To advocate on behalf of injured employees as a class to ensure that the workers' compensation statute and rules protect their rights.*

Objective 3.1 *To advocate on behalf of injured workers as a class in 100% of proposed workers' compensation statutory changes and rules that have an impact on the class through 2011.*

Core Business Functions

OIEC was established to represent the interests and provide services to all unrepresented injured employees when assistance is requested. OIEC's core business functions include:

- 1) Assisting injured employees in the workers' compensation system by providing free Ombudsman services in TDI's administrative dispute resolution system;
- 2) Educating injured employees about their rights and responsibilities and improve their ability to effectively navigate through the workers' compensation system; and
- 3) Advocating on behalf of injured employees as a class in order to achieve a balanced workers' compensation system and protect their rights.

OIEC also refers injured employees to the Department of Assistive and Rehabilitative Services (DARS), the Texas Workforce Commission (TWC), TDI or other social or regulatory services, such as the Health and Human Services Commission (HHSC) or licensing boards, to assist injured employees with 1) finding employment, 2) training



opportunities, 3) returning to work, 4) filing complaints with appropriate licensing boards or other regulatory agencies, 5) obtaining financial assistance, and 6) reporting alleged administrative violations.

Additionally, OIEC provides outreach presentations, workshops, seminars, speaking engagements, or other forums to workers' compensation system stakeholders regarding OIEC, its role, and its services.

Anticipated Changes to the Mission, Strategies, and Goals Over the Next Five Years

OIEC recommended amending the agency's mission to more accurately align itself with the agency's enabling statute (Chapter 404 of the Texas Labor Code), and to more clearly delineate the agency's mission to assist, educate, and advocate on behalf of the injured employees of Texas. Although OIEC continues to build relationships with, and seeks feedback from other workers' compensation stakeholders, the agency's mission was redefined to emphasize representation of interests of injured employees over the goal of creating a balanced system, which is more properly a goal of the regulatory agency.

OIEC believes that an agency that clearly serves as a voice for injured employees in the workers' compensation system results in a more balanced system that serves Texans and is subject to TDI regulation.

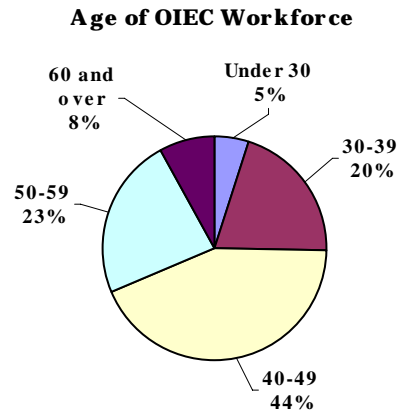
The 2008-2009 budget structure was carefully reviewed and recommendations for changes to the 2010-2011 budget structure were submitted to the LBB and GOBPP on April 16, 2008. OIEC realigned two of its goals to reflect the appropriate priority. The agency also requested to consolidate two strategies into one under Goal 2.

Additional changes to the mission, strategies, and goals for the 2012-2013 biennia are not anticipated at this time.

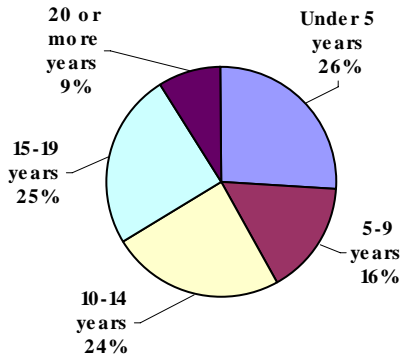
II. CURRENT WORKFORCE PROFILE (SUPPLY ANALYSIS)

Demographics information, including age, gender, and length of service

Aging Workforce. The average age of an OIEC employee is 45. One-fourth of the employees are under the age of 30, while 43% are between the ages of 40 and 49. More than 30% are 50 or older.



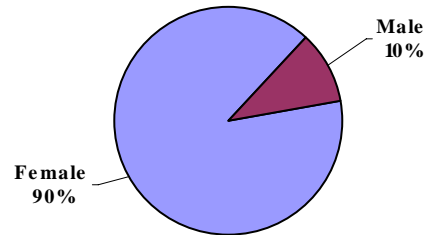
State Tenure



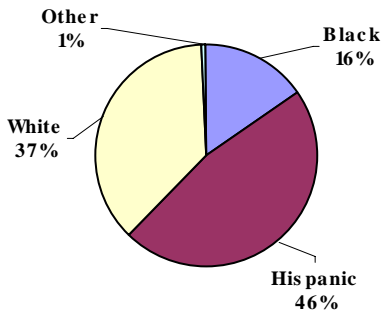
Average State Tenure. The average State tenure for an OIEC employee is 10.83 years. Almost ten percent of OIEC employees have at least 20 years of experience; while almost 50% have between 10 and 20 years of experience. Most OIEC employees also have workers' compensation experience.

Gender of OIEC Employees. According to the Statewide Civilian Workforce Composition, 45.7% of employees in Texas are female. The percent of female employees at OIEC is well above this number at 90%.

Gender



Ethnicity



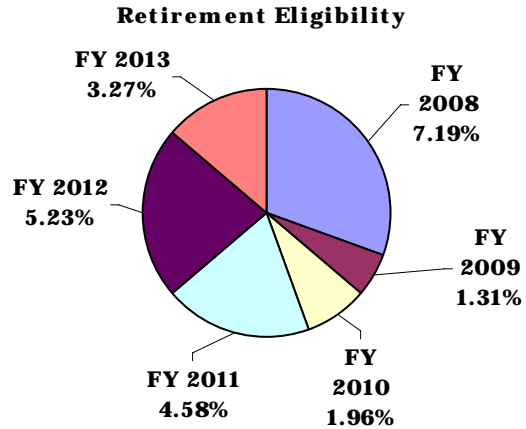
Ethnicity. OIEC's percentage of minority employees is well above the Statewide Civilian Workforce Composition with 16% Blacks and 46% Hispanics. The Statewide Composition is 11% Blacks and 28% Hispanics.

EEO Category	Office of Injured Employee Counsel – Workforce Statistics							
	Black	Hispanic	White	Asian	Other	Female	Male	Total Positions
Officials, Admin. (A)	1	6	4	0	0	7	4	11
Professional (P)	18	36	40	0	1	85	10	95
Technical (T)	0	0	0	0	0	0	0	0
Para-Professional (Q)	2	19	5	0	0	25	1	26
Admin. Support (C)	3	11	8	0	0	21	1	22
Skilled Crafts (S)	0	0	0	0	0	0	0	0
Service & Maintenance (M)	0	0	0	0	0	0	0	0



Percent of Workforce Eligible to Retire

Approximately 24% of OIEC’s workforce will be eligible to retire through FY 2013.



Agency Turnover

The average turnover rate in FY 2007 was 15.31 percent. Of those, 3.06 percent was due to retirement.

The average turnover for the agency as of February FY 2008 is 7.17, with 2.15 percent due to retirement.

It is worth noting that 92% of OIEC employees see themselves working for this agency in two years, and OIEC believes that is a good indicator of how well the organization is doing at retaining its employees. See the 2008 Survey of Organizational Excellence, Appendix G.

Projected Employee Turnover Rate over the Next Five Years

OIEC anticipates that the turnover rate over the next five years will be less than 15%.

Workforce Skills Critical to the Mission and Goals of the Agency

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. These skill sets include:

- Providing appropriate customer service;
- Interpreting legal/regulatory statutes;
- Providing legal and workers’ compensation research and analysis;
- Managing and providing leadership to staff;
- Providing medical research and analysis; and
- Performing audit and quality assurance, and administrative functions.



III. FUTURE WORKFORCE PROFILE (DEMAND ANALYSIS)

Expected Workforce Changes Driven by Factors such as Changing Missions, Goals, Strategies, Technology, Work, Workloads, and Work Processes

OIEC 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.

Future Workforce Skills Needed

- Providing appropriate customer service
- Interpreting legal/regulatory statutes
- Providing legal and workers' compensation research and analysis
- Managing and providing leadership to staff
- Providing medical research and analysis
- Performing audit and quality assurance, and administrative functions

Anticipated Increase or Decrease in the Number of Employees Needed To Do the Work

An increase of two additional staff that will be located at the new South Austin Field Office will be requested in the FY 2010-2011 biennium. One staff will be a Customer Service Representative and one will be an Ombudsman to assist customers.

A Medical Consultant and Quality Assurance and Audit staff will also be requested in the FY 2010-2011 biennium. The Medical Consultant will provide assistance to Ombudsmen and other OIEC staff regarding medical dispute resolution, medical necessity, medical research, and other related issues. The Quality Assurance and Audit staff will ensure that the agency's operations are in good standing with the appropriate auditing practices, agency resources are used efficiently, and the integrity of OIEC's services are carried out in the State's 25 field offices. Currently, the agency contracts with an outside entity to conduct audits; however, the agency anticipates that an in-house auditor will provide maximum quality assurance at a savings compared to out-sourcing the service.

Critical Functions that Must Be Performed to Achieve the Strategic Plan

- Customer service functions
- Legal research and analysis functions
- Medical research and analysis functions
- Workers' compensation research and analysis functions
- Managerial functions
- Audit and quality assurance, and administrative functions.



IV. GAP ANALYSIS

Anticipated Surplus or Shortage in Staffing Levels

Additional positions will be requested in the FY 2010-2011 Legislation Appropriations Request as exceptional items.

An increase of two additional staff which will be located at the new South Austin Field Office will be requested in the FY 2010-2011 Legislation Appropriations Request as an exceptional item. One staff will be a Customer Service Representative and one will be an Ombudsman to assist customers.

Medical Consultant and Quality Assurance and Audit staff will also be requested in the FY 2010-2011 biennium. The Medical Consultant will provide assistance to Ombudsman and other OIEC staff regarding medical dispute resolution, medical necessity, medical research, and other related issues. Quality Assurance and Audit staff will ensure that the agency's operations are in good standing with the appropriate auditing practices, agency resources are used efficiently, and the integrity of OIEC's services are carried out in the State's 25 field offices. Currently, the agency contracts with an outside entity to conduct audits; however, the agency anticipates that an in-house auditor will provide maximum quality assurance at a savings compared to out-sourcing the service.

Anticipated Surplus or Shortage of Skills

Positions with the following specific skill sets will be requested in the FY 2010-2011 biennium as exceptional items.

Medical Background. A staff member with medical background is necessary to provide assistance and serve as a professional medical resource to Ombudsman and other OIEC staff regarding medical dispute resolution, medical necessity, medical research, and other related issues.

Audit Background. A staff person with auditing background is necessary to ensure that the agency's operations are in good standing with the appropriate auditing practices. Currently, the agency contracts with an outside entity to conduct audits; however, the agency anticipates that an in-house auditor will provide maximum quality assurance at a savings compared to out-sourcing the service.

V. STRATEGY DEVELOPMENT

Specific Goals to Address Workforce Competence Gaps or Surpluses

Recruitment and Retention Plans. 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 11th on the list and job security, which ranked 14th.”

OIEC fosters a positive organizational culture and uses 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.

Organizational Training and Employee Development.

- Training Committee. An agency training committee has been developed and consists of employees from all walks of OIEC with various skill sets. It is a multi-program committee created to design an agency training program. This Committee will also develop a more comprehensive career path for Ombudsman Assistants and Customer Service Representatives. Additionally, the Committee will coordinate Legal Services’ RSA training, including but not limited to Practical Skills Training. The training Committee is based out of San Antonio, which has been selected due to the growing number of work-related injuries in the area.
- New Employee Training. All new employees are required to participate in new employee training. Training courses are available on the Intranet and may include a course description page with prerequisite reading, the course itself, and helpful links. The training courses consist of slideshows, videos, or videos with a handout. Some courses include audio. All employees are also required to read the employee manual and take core training offered by OIEC and TDI, such as Ethics, Confidentiality, Preventing Sexual Harassment, and Workplace Conduct.
- Ethics Training. To underscore the value that OIEC places on ethics and to ensure that all employees understand and practice the highest ethical standards, OIEC provides ethical training to all employees. Further, OIEC created a “values statement” that defines the culture and values that define our organization which is available on the agency’s website. OIEC has established an Ethics Committee that provides a forum for the discussion of ethical dilemmas and their resolution and helps to disseminate information on ethical topics across the agency.
- Ombudsman Training Program. Ombudsman Associates participate in a year-long training program at the end of which they earn their type 03 workers’ compensation adjustor’s licenses and are reclassified as Ombudsman I. The training program for an Associate consists of training divided into two parts. In Part I (26 weeks) the Associates complete new employee orientation courses, classroom studies, customer services, and observation of activities. After completing Part I, the Associates enter Part II of the program. In Part II (also 26 weeks) the Associates begin conducting meetings with injured employees in preparation for dispute resolution hearings and assisting in proceedings, while being observed and evaluated by the Deputy Director of the Ombudsman Program (Senior Ombudsmen). During Part II, the Associates are



required to obtain their type 03 workers' compensation adjuster's licenses. Upon successful completion of the training program, Associates are eligible for a career ladder promotion to an Ombudsman I.

The Ombudsman I must have at least one year of workers' compensation experience as required by the Texas Labor Code §404.152. They participate in proceedings, assist injured employees to obtain supporting documentation and to appropriately and timely exchange evidence; maintain an index folder; and work closely with the Ombudsman Assistants to effectively assist injured employees. If an Ombudsman I was not previously an Associate, then the Ombudsman I must complete a 20-week training program during which time a type 03 workers' compensation adjuster's license must be obtained.

The Ombudsman II must have at least two years of workers' compensation experience. The Ombudsman II must maintain all of the requirements of an Ombudsman I and may be required to assist Team Supervisors and Deputy Directors in the training and mentoring of new OIEC staff.

All Ombudsmen assist with early intervention when injured employees request assistance. The goal of early intervention is for OIEC to contact injured employees early and assist them in resolving issues before they develop and go to a hearing.

Ombudsmen must remain current on continuing education requirements in order to maintain their type 03 workers' compensation adjuster's licenses. These credits are offered through Practical Skills Training conducted by the RSAs and the annual conferences. Additional training is provided through monthly teleconferences and individual training based upon management recommendation.

- **Practical Skills Training Program.** The Practical Skills Training Program is designed to help the Ombudsmen refine their skills in assisting injured employees in proceedings before TDI. At least three different practical skills training courses are offered by the RSAs each year. The training is delivered in six regional locations across the State, and the Ombudsmen receive continuing education credits for participating in the training, which helps them fulfill the requirements for maintaining their type 03 workers' compensation adjuster's licenses.

The courses are designed to give practical, useful information to the Ombudsmen, which they can immediately implement into the performance of their job duties. There is a lecture and discussion component at each training session. In addition, written material is prepared to provide more detailed resource material than can be presented in a lecture. The written materials from each practical skills training is posted on OIEC's intranet for future reference. Finally, each practical skills training includes some practical application of the material to test the participants knowledge of the subject matter covered in the training. Those exercises provide an excellent opportunity to provide feedback from the trainer and the participants and a chance to have a little fun, which plays a significant role in team building.

- **Customer Service Representative (CSR) Training.** A comprehensive training program is provided to each CSR as they are hired so that they will have the information necessary to respond accurately and promptly to the issues that injured employees bring to them.



Training manuals with copies of the workers' compensation Act and Rules are provided to each CSR with the requirement that they be conversant with the information contained therein. Requirements include completing workers' compensation modules and reviewing the agency website links to provide for ongoing educational and procedural presentations, including instructions on the use of Compass and TXComp (workers' compensation automation systems). A monthly review of Appeals Panel's decisions is also required, as they provide interpretations of the Act and Rules and procedural clarifications.

Before being assigned to providing customer service to injured employees, CSRs are required to observe interaction between injured employees and Ombudsmen. In addition, new CSRs choose or are assigned a senior CSR or Ombudsman Associate or Assistant as a mentor for guidance and advice. They are also required to observe hearing preparation sessions, benefit review conferences and contested case hearings. Training exercises designed to help employees determine the questions to ask injured employees and the information needed should the injured employee's dispute proceed through TDI's administrative dispute resolution process. This extensive training is designed to produce employees who are well-equipped to provide exceptional customer service.

- Monthly Teleconferences. Monthly teleconferences are held to ensure OIEC staff stays abreast of information necessary to continue to effectively serve the injured employees of Texas. Teleconferences may be held for specific functions, such as Ombudsman or Customer Service Representatives, or as an agency as a whole. RSAs may make presentations on legal issues or presentations may be made on new legislation, policies, and procedures. The agency's training committee has the opportunity to request particular topics be included in the teleconferences and serves as the coordinator on agency education and training initiatives.
- Annual OIEC Conference. OIEC's conference is held each year in July for all OIEC staff to come together in one place. The conference generally lasts 2½ days. Since OIEC staff is located throughout Texas, the conference provides an opportunity to get to know each other - providing a face with a name, building OIEC's network, and increasing agency relations to overcome geographical barriers among OIEC's 25 locations.

Training sessions are held that promote teamwork and ethics as well as provide information about other aspects of the agency that staff may not be familiar with. Breakout sessions developed and targeted to the employee's job duties are held on a variety of topics including current legislative activities, changes in workers' compensation laws and rules, and new agency policies and procedures. Information presented at the conference is designed to enhance the skills of staff and increase communication within the agency in order to provide excellent service to the injured employees of Texas. OIEC believes effective teamwork yields business efficiencies, which are required from State agencies supported by public funds.

In 2008, the conference will be held in Austin. In 2009, it will be held in San Antonio, which serves as the hub for OIEC's Training Committee.



- **Policy Development Program.** OIEC's Policy Development Program was initiated in an effort to better communicate and receive ideas from all employees. Recognizing the value and ideas of each employee, this program was designed to serve as a channel of communication for "great ideas."

While participation in this program is optional, all OIEC employees are encouraged to submit their ideas on how to improve OIEC, OIEC's policies or procedures, or work environment. OIEC's executive management team review the ideas or recommendations submitted monthly. Confidentiality of the employee who submitted the policy recommendations is being provided to encourage all OIEC employees to participate in providing suggestions to improve our agency.

- **Performance Planning and Development System (PPDS).** The PPDS is a system for providing regular performance evaluations for all OIEC employees. The primary purpose of the PPDS is to measure past job performance and work conduct in comparison with previously established standards. The PPDS evaluation provides supervisors the tools to develop an employee's performance, address performance that does not meet expectations, and handle performance problems in a manner that encourages individual responsibility for results. This system also presents an opportunity for the supervisor and the employee to look to the future and identify opportunities for the employee's growth and development. Performance evaluations do not guarantee an increase in compensation nor do they guarantee a contract for employment.

Within 30 days of hire or transfer to another position with different job requirements, supervisors provide the PPDS plan to the employee and discuss the performance measurements. After six (6) months, the supervisor provides an initial review and evaluation of the employee's performance. Thereafter, employees' PPDS reviews are performed annually from the date of the initial evaluation. PPDS evaluations may be conducted more often if necessary.



APPENDIX G

Survey of Organizational Excellence Results and Utilization Plan

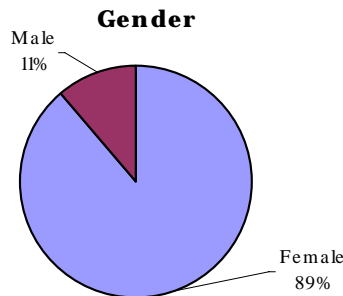
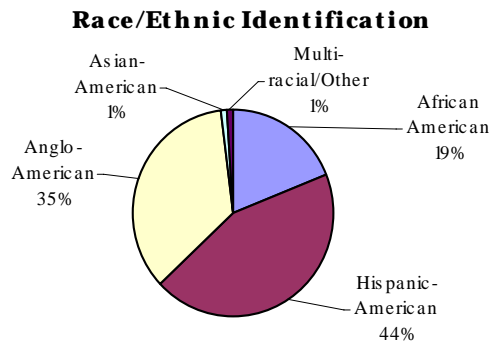
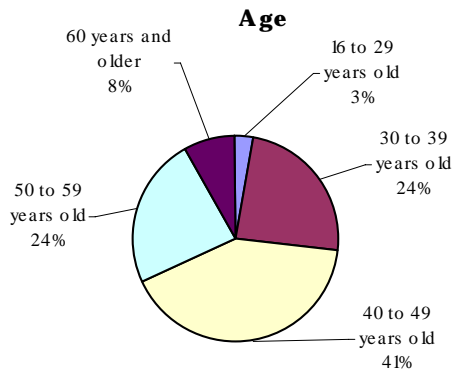
Overview

At the beginning of calendar year 2008, OIEC employees were asked to participate in the Survey of Organizational Excellence. The survey provides information about the employees' perceptions of the effectiveness of the agency, and the employees' satisfaction with the agency. The survey is provided by the Organizational Excellence Group, University of Texas School of Social Work.

Out of 152 employees who were invited to take the survey, 124 responded. As a general rule, rates higher than 50 percent suggest soundness. At 82 percent, OIEC's response rate is considered high. Compared to employees in organizations of similar size or mission OIEC has slightly more favorable results.

Since the 2008 survey is the first survey that OIEC has participated in, it represents the benchmark in which future surveys will be based.

Participant Profile



Survey Dimensions and Constructs

The Survey framework consists of survey items, dimensions, and constructs. Each level of the framework provides insight into the workings of an organization.

Items. At the most basic level there are survey items which provide specific feedback. For each item, employees are asked to indicate how strongly they agree or disagree that the item describes the organization. Possible responses include: (1) strongly disagree; (2) disagree; (3) feel neutral; (4) agree; (5) strongly agree; and, (not scored) don't know/not applicable. Any survey item with an average (mean) score above the neutral midpoint of "3.0" suggests that employees perceive the issue more positively than negatively. Scores of "4.0" or higher indicate areas of substantial strength for the organization. Conversely, scores below "3.0" are viewed more negatively by employees. Items that receive below a "2.0" should be a significant source of concern for the organization and should receive immediate attention.

Dimensions. The framework, at its highest level, consists of five workplace dimensions. These five dimensions capture the total work environment. Each dimension consists of several survey constructs. The dimension score also ranges from 100 to 500 and is an average of the construct scores belonging to the dimension.

Constructs. The survey constructs are designed to broadly profile organizational strengths and areas of concern so that interventions may be targeted appropriately. Survey constructs are developed from a group of related survey items. The construct score is calculated by averaging the related item scores together and multiplying that result by 100. Scores for the constructs range from a low of 100 to a high of 500. An item may belong to one or several constructs, however, not every item is associated with a construct.

Survey Dimensions and Constructs

Dimension I Work Group	Dimension II Accommodations	Dimension III Organizational Features	Dimension IV Information	Dimension V Personal
<ul style="list-style-type: none"> • Supervisor Effectiveness • Fairness • Team Effectiveness • Diversity 	<ul style="list-style-type: none"> • Fair Pay • Physical Environment • Benefits • Employment Development 	<ul style="list-style-type: none"> • Change Oriented • Goal Oriented • Holographic • Strategic • Quality 	<ul style="list-style-type: none"> • Internal • Availability • External 	<ul style="list-style-type: none"> • Job Satisfaction • Time and Stress • Burnout • Empowerment

Definitions

Dimension I

Work Group. This dimension relates to employees' activities within their immediate work vicinity. They include factors that concern how employees interact with peers, supervisors and all of the persons involved in day-to-day work activity. This is the immediate work environment of the employee.



Constructs

Supervisor Effectiveness. Supervisor Effectiveness provides insight into the nature of supervisory relationships in the organization, including the quality of communication, leadership, and fairness that employees perceive exist between supervisors and themselves.

Fairness. Fairness measures the extent to which employees believe that equal and fair opportunity exists for all members of the organization.

Team Effectiveness. Team Effectiveness captures employees' perceptions of the effectiveness of their work group and the extent to which the organizational environment supports appropriate teamwork among employees.

Diversity. Diversity addresses the extent to which employees feel that individual differences, including ethnicity, age and lifestyle, may result in alienation and/or missed opportunities for learning or advancement.

Dimension II

Accommodations. This dimension looks at the physical work setting and the factors associated with compensation, work technology and tools. It is the "total benefit package" provided to employees by the organization.

Constructs

Fair Pay. Fair Pay is an evaluation from the viewpoint of employees of the competitiveness of the total compensation package. It addresses how well the package "holds up" when employees compare it to similar jobs in their own communities.

Physical Environment. Adequacy of Physical Environment captures employees' perceptions of the work setting and the degree to which employees believe that a safe and pleasant working environment exists.

Benefits. Benefits provides an indication of the role that the employment benefit package plays in attracting and retaining employees.

Employment Development. Employment Development captures perceptions of the priority given to the career and personal development of employees by the organization.

Dimension III

Organizational Features. This dimension addresses the organization's interface with external influences. It is an internal evaluation of the organization's ability to assess changes in the environment and make needed adjustments. Also included are assessments of the quality of relations the organization shares with the public. In essence, this dimension captures the "corporate" culture.

Constructs

Change Oriented. Change Oriented secures employees' perceptions of the organization's capability and readiness to change based on new information and ideas.

Goal Oriented. Goal Oriented addresses the organization's ability to include all its members in focusing resources towards goal accomplishment.

Holographic. Holographic refers to the degree to which all actions of the organization "hang together" and are understood by all. It concerns employees' perceptions of the consistency of decision-making and activity within the organization.



Strategic. Strategic orientation secures employees' thinking about how the organization responds to external influence, including those which play a role in defining the mission, services and products provided by the organization.

Quality. Quality focuses upon the degree to which quality principles, such as customer service and continuous improvement, are a part of the organizational culture.

Dimension IV

Information. This dimension refers to how consistent and structured communication flow is within the organization and to outside groups. It examines the degree to which communication is directed towards work concerns. How focused and effective it is, as well as, how accessible information is to employees.

Constructs

Internal. Internal Communication captures the nature of communication exchanges within the organization. It addresses the extent to which employees view information exchanges as open and productive.

Availability. Availability of Information provides insight into whether employees know where to get needed information and whether they have the ability to access it in a timely manner.

External. External Communication looks at how information flows in and out of the organization. It focuses upon the ability of the organization to synthesize and apply external information to work performed by the organization.

Dimension V

Personal. This dimension reports on how much internalization of stress is occurring and the extent to which debilitating social and psychological conditions appear to be developing at the level of the individual employee. It addresses the important interface between employees' home and work lives, and how this relationship may impact job performance and organizational efficiency.

Constructs

Job Satisfaction. Job Satisfaction addresses employees' satisfaction with their overall work situation. Weighed heavily in this construct are issues concerning employees' evaluation of the availability of time and resources needed to perform jobs effectively.

Time and Stress. Time and Stress Management looks at how realistic job demands are given time and resource constraints, and also captures employees' feelings about their ability to balance home and work demands (note: The higher the score the lower the level of stress).

Burnout. Burnout is a feeling of extreme mental exhaustion that can negatively impact employees' physical health and job performance, leading to lost resources and opportunities in the organization (note: the higher the score the lower the level of burnout).

Empowerment. Empowerment measures the degree to which employees feel that they have some control over their jobs and the outcome of their efforts.

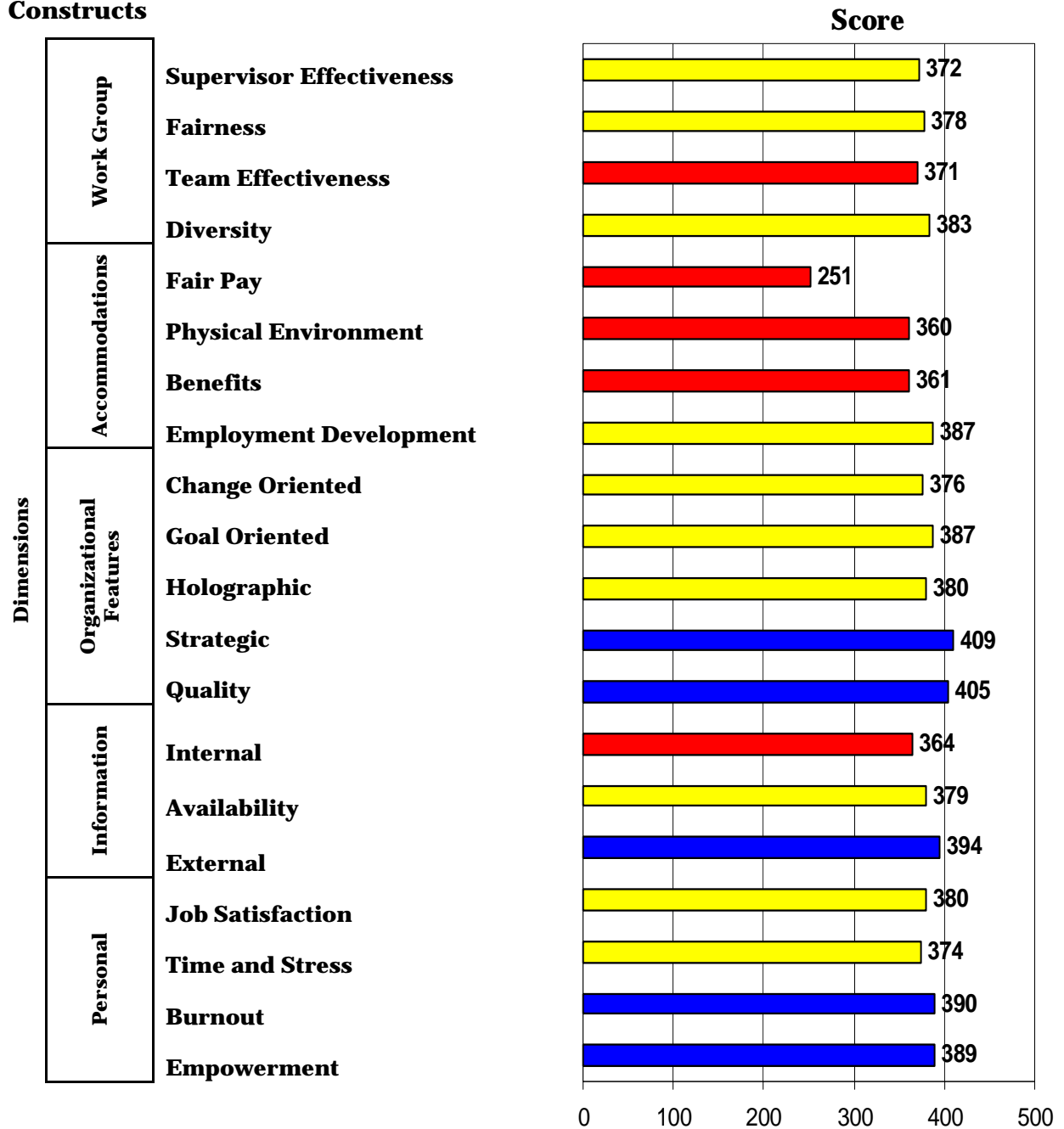
Results

In the chart on the next page, Constructs have been color coded to highlight the organization's areas of strengths and areas of concern. The 5 highest scoring constructs are blue, the 5 lowest scoring constructs are red, and the remaining 10 constructs are yellow. Each construct is displayed with its corresponding score. Highest scoring



constructs are areas of strength for this agency while the lowest scoring constructs are areas of concern. Scores above 300 suggest that employees perceive the issue more positively than negatively, and scores of 400 or higher indicate areas of substantial strength. Conversely, scores below 300 are viewed more negatively by employees, and scores below 200 should be a significant source of concern for the agency and should receive immediate attention. Fortunately, OIEC did not receive any scores below 200. Definitions of Dimensions and Constructs follow the chart below.

Constructs



Construct Summary

Highest Scoring Constructs:

Areas of Strength

Score	Construct
409	Strategic
405	Quality
394	External
390	Burnout
389	Empowerment

Lowest Scoring Constructs:

Areas of Concern

Score	Construct
251	Fair Pay
360	Physical Environment
361	Benefits
364	Internal
371	Team Effectiveness

Utilization Plan

Employee satisfaction is one of OIEC’s primary concerns. Eighty-two percent of OIEC staff participated in the Survey of Organizational Excellence, which is considered a high response rate. High response rates mean that employees have an investment in the agency, want to see the agency improve, and generally have a sense of responsibility to the agency.

Since this is the first survey in which OIEC has participated, OIEC will use this survey as a benchmark for future surveys. It is pleasing to know that 92% of OIEC employees see themselves working for this agency in two years, and OIEC believes that is a good indicator of how well the organization is doing at retaining its employees. Also encouraging is that compared to employees in organizations of similar size or mission OIEC has slightly more favorable results.

OIEC staff meets regularly for training sessions, staff meetings, project management meetings, and sends updates and other important information to staff through email and the intranet. OIEC management has met with staff to explain the results of the Survey of Organizational Excellence and has posted the survey on the intranet for staff to review. The Survey has also been posted on the agency website for external customers to review.

OIEC will continue to strive to make OIEC a great place to work, and as our philosophy states, “OIEC is committed to protect the rights of the injured employees of Texas. We will provide the highest level of professional, efficient, and effective customer service; and maintain a work environment that values a diverse workforce, ethical management practices, teamwork, respect, and dignity.”



APPENDIX H

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, OIEC's 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 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 RSAs across the State whose legal expertise will bolster the ability of the Ombudsmen to do their jobs. The relationships between Ombudsmen and RSAs are 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 11th on the list and job security, which ranked 14th.”

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. These 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 has also established 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 TDI and DARS is critical to helping injured employees achieve positive outcomes. OIEC will seek ways to enhance such coordination. A Memorandum of Agreement (MOA) between OIEC, TDI, and DARS has been developed to ensure the most effective referral process.

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 TDI 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, 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 80th 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 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 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 contested case hearing 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 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 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 to OIEC Business Plan

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, 79th 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 TDI were transferred to OIEC effective March 1, 2006, and OIEC began providing services to injured employees.

H.B. 7 also authorized OIEC to employ 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 80th Texas Legislative authorized the transfer of 25 employees from TDI 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 80th 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 CSR in nearly all of the field offices and a call center will be maintained in the Fort Worth field office for answering OIEC's 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 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 I

HISTORICALLY UNDERUTILIZED BUSINESS (HUB)

COMPARISON TO STATEWIDE HUB PROCUREMENT GOALS

Fiscal Year 2006-07 HUB Expenditure Information

Procurement Category	Statewide HUB Goals	HUB Expenditures FY 2006		Total Expenditures FY 2006	HUB Expenditures FY 2007		Total Expenditures FY 2007
		HUB %	HUB \$		HUB %	HUB \$	
Heavy Construction	11.90%	0.00%	\$0.00	\$0.00	0.00%	\$0.00	\$0.00
Building Construction	26.10%	0.00%	\$0.00	\$0.00	0.00%	\$0.00	\$0.00
Special Trade Construction	57.20%	0.00%	\$0.00	\$150.00	0.00%	\$0.00	\$171.00
Professional Services	20.00%	0.00%	\$0.00	\$0.00	0.00%	\$0.00	\$0.00
Other Services	33.00%	1.37%	\$65.00	\$4,742.00			\$36,876.00
Commodities	12.60%	36.00%	\$3,356.00	\$9,301.00			\$33,954.00
Total Expenditures		24.10%	\$3,421.00	\$14,193.00	27.60%	\$19,641.00	\$71,001.00

Assessment of Fiscal Year 2006-07 Efforts to Meet HUB Procurement Goals

Attainment:

The agency attained or exceeded one of the three, or 33 percent, of the applicable statewide HUB procurement goals in FY 2006.

The agency attained or exceeded one of the three, or 33 percent, of the applicable statewide HUB procurement goals in FY 2007.

Applicability:

OIEC functions do not include construction; therefore, "Heavy Construction," "Building Construction," and "Special Trade Construction" categories are not applicable to the agency. However, OIEC did incur incidental construction expenses associated with building maintenance through the Special Trade category FY 2006 and 2007.

Factors Affecting Attainment:

Professional Services: No expenditures were made under "Professional Services" procurement category for FY 2006 and 2007.

Other Services: Several of the contracts under the "Other Services" category were specialized contracts with low HUB participation, such as proprietary maintenance. The other major expenditures included specialized educational training, other office equipment and hardware maintenance services.

"Good Faith" Efforts: Since TDIs Purchasing Department is responsible for OIEC's procurement process, OIEC was able to be a part of TDI HUB Forums hosted in FY 2006 and 2007.

