



Performance Measures at the State Office of Administrative Hearings

February 17, 2022

Members of the Legislative Audit Committee:

The State Office of Administrative Hearings (Office) reported unreliable results to the Automated Budget and Evaluation System of Texas (ABEST) for:

- Two key performance measures tested for fiscal year 2020.
- One key performance measure tested for fiscal year 2020 and the first three quarters of fiscal year 2021.

The Office had weaknesses in its processes for adding new hearings and mediation cases to its Case Management System (CMS); as a result, it could not ensure that the performance measure data was reliable.

Specifically, the Office did not track the receipt of request forms for new hearings and mediation cases that were received manually from September 1, 2019, to May 31, 2021. The Office enters all request forms, whether received manually or electronically, into the CMS. Without that information, auditors were unable to verify the completeness of the data in the CMS.

A performance measure result is considered reliable if it is certified or certified with qualification; the result is considered unreliable if it is inaccurate or if factors prevented certification. Table 1 on the next page summarizes the certification results for the three performance measures tested.

Performance Measures

Agencies report results for their key performance measures to the Legislative Budget Board using the Automated Budget and Evaluation System of Texas (ABEST). Key performance measures are:

- Budget drivers that are generally externally focused.
- Closely related to the goals identified in the statewide strategic plan.
- Reflective of the characteristics of good performance measures.

Source: *Guide to Performance Measure Management*, State Auditor's Office Report No. 12-333, March 2012.

Background









The State Office of Administrative Hearings (Office) resolves disputes between Texas agencies, other governmental entities, and private citizens either through an administrative hearing or mediation. The Office is separate and independent from the agencies involved in the disputes. The administrative law judges who preside over the disputes are neutral. The specific objectives of the Office are to:

- (1) Conduct fair and objective administrative hearings.
- (2) Provide fair, timely, and efficient decisions and proposals for decision.
- (3) Offer the opportunity for parties to resolve their disputes through mediation (or alternative dispute resolution).

Source: The Office.

Table 1

Summary of Performance Measure Results for the State Office of Administrative Hearings

Performance Measure	Reporting Frequency	Certification Results ^a	
		Fiscal Year 2020	Fiscal Year 2021
A, Outcome: Percentage of Participants Surveyed Satisfied with Overall Process	Annual		Not Applicable ^c
A, Outcome: Percentage of Participants Surveyed Satisfied with Overall Alternative Dispute Resolution Process	Annual		Not Applicable ^c
A.1.1, Efficiencies: Average Number of Days from Close of Record to Issuance of Proposal for Decision or Final Order Issuance	Quarterly ^b		
<p>^a The certification of a performance measure is classified under one of the following categories:</p> <ul style="list-style-type: none">  A measure is certified if reported performance is accurate within 5 percent of actual performance and if it appears that controls to ensure accuracy are in place for collecting and reporting performance data.  A measure is certified with qualification when reported performance appears accurate but the controls over data collection and reporting are not adequate to ensure continued accuracy. A measure is also certified with qualification when controls are strong but source documentation is unavailable for testing. A measure is also certified with qualification if agency calculation of performance deviated from the measure definition but caused less than a 5 percent difference between the number reported to ABEST and the correct performance measure result.  A measure is inaccurate when the actual performance is not within 5 percent of reported performance, or when there is more than a 5 percent error in the sample of documentation tested. A measure is also inaccurate if the agency's calculation deviated from the measure definition and caused more than a 5 percent difference between the number reported to ABEST and the correct performance measure result.  A factors prevented certification designation is used if documentation is unavailable and controls are not adequate to ensure accuracy. This designation also will be used when there is a deviation from the measure definition and the auditor cannot determine the correct performance measure result. <p>^b The reporting period tested for quarterly performance measures included all four quarters for fiscal year 2020 and the first three quarters of fiscal year 2021.</p> <p>^c Annual results for fiscal year 2021 were not included in the reporting period.</p>			

The attachment to this letter contains detailed results for the key performance measures that were tested and recommendations to address the issues identified during this audit. The Office's management agreed with the recommendations in this report.

Auditors communicated other, less significant issues to the Office's management separately in writing.

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This audit was conducted in accordance with Texas Government Code, Section 2101.038.

Sincerely,

Lisa R. Collier, CPA, CFE, CIDA

State Auditor

Attachment

cc: The Honorable Kristofer Monson, Chief Administrative Law Judge



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Attachment

Section 1

The Office Reported Unreliable Results for the Three Key Performance Measures Tested

Certification Results:

Factors Prevented Certification







The State Office of Administrative Hearings (Office) did not report reliable results for the three key performance measures tested:

- Percentage of Participants Satisfied with Overall Process.
- Percentage of Participants Satisfied with Overall Alternative Dispute Resolution Process.
- The Average Number of Days from Close of Record to Issuance of Proposal for Decision or Final Order Issuance.

Table 2 shows certification status for the performance measure results that the Office reported to the Automated Budget and Evaluation System of Texas (ABEST).

Table 2

Unreliable Performance Measure Results for the State Office of Administrative Hearings

Performance Measure (Related Objective or Strategy, Classification: Measure Name)	Fiscal Year	Results Reported in ABEST	Certification Results ^a
A, Outcome: Percentage of Participants Surveyed Satisfied with Overall Process	2020	87.71%	
A, Outcome: Percentage of Participants Surveyed Satisfied with Overall Alternative Dispute Resolution Process	2020	93.69%	
A.1.1, Efficiencies: Average Number of Days from Close of Record to Issuance of Proposal for Decision or Final Order Issuance	2020 Quarter 1, 2021 Quarter 2, 2021 Quarter 3, 2021	29.98% 28.18% 36.47% 34.95%	
 ^a A factors prevented certification designation is used if documentation is unavailable and controls are not adequate to ensure accuracy. This designation also will be used when there is a deviation from the measure definition and the auditor cannot determine the correct performance measure result.			

- **Percentage of Participants Satisfied with Overall Process and Percentage of Participants Satisfied with Overall Alternative Dispute Resolution Process. Factors prevented certification of these performance measures for fiscal year 2020 because the data from the Office’s Case Management System (CMS)**

was found to be unreliable. (See Section 2 for additional information on the CMS.) The Office uses data from the CMS to help identify applicable cases for which participants should be surveyed for both measures. Responses from the identified survey participants are then used to calculate participant satisfaction for each of the measures. The resulting calculations are reported into ABEST.

- **Average Number of Days from Close of Record to Proposal for Decision or Final Order Issuance.** Factors prevented certification of this performance measure for fiscal year 2020 and the first three quarters of fiscal year 2021 because the CMS data was found to be unreliable. For each quarterly period, the Office uses data from the CMS to identify (1) the total number of cases that had a decision or final order during the reporting period and (2) the total number of days between closed and final order dates. This information is used to calculate the average number of days for the measure, which is then reported into ABEST.

Recommendations

The Office should ensure that it uses reliable data to calculate the results for its performance measures.

Management's Response

Management Agrees with the Recommendation

Performance measure data is generated from the current legacy Case Management System (CMS) and reporting. The legacy system is archaic, paper, and manual process driven. The agency acknowledges a need to improve data quality and systems automation and integration for Administrative Hearings. The agency is currently in the process of implementing a new case management system that will facilitate the Administrative Hearings process and house case information in a single system that will increase efficiencies, mitigate errors, and move the agency into the modern era of electronic data processing.

Responsible Area: Chief Clerk, Chief Information Officer, and Records & Risk Management Team Lead

Timeline for implementation: September 1, 2022

The Office Should Strengthen Controls for Managing New Cases That Are Added to the CMS

For the three key performance measures auditors selected for testing, the data from the CMS that was used to calculate those key performance measures from September 1, 2019, through May 31, 2021, was determined to be unreliable for the purposes of the audit. (See text box for more information on the CMS.) Weaknesses in the Office's processes for adding new hearings and mediation cases to the CMS prevented auditors from being able to determine whether the data in the CMS was complete.

Specifically, the Office did not consistently track the receipt of Request to Docket Case forms (request forms) that state agencies submitted for new hearings and mediation cases. (See text box for more information on request forms.) While the Office receives daily notices of the request forms electronically through the EfileTexas.gov portal, it did not maintain a receipt log for request forms received manually. Without documentation that shows the receipt of request forms that were received manually, the Office could not show auditors that all manually received request forms were entered into the CMS.

Background on the CMS and Request Forms

The Office uses the CMS to document the progress of its hearings and mediation cases. The data recorded in the CMS about hearings and mediation cases includes, but is not limited to, the docket number, the agency number, the names of the parties, the type of action (hearing or mediation), and key dates such as the date a case was closed, the date proposed for a decision, or when a final order was issued.

Additionally, the CMS includes the information that state agencies provided on the Office's Request to Docket Case form (request form). The request form is used by a state agency to request a hearing or mediation services. The request form will include agency information as well as which services the agency is requesting. State agencies may submit the request forms to the Office manually (i.e., by hand delivery, mail, or fax) or, as of March 2020, electronically via the EfileTexas.gov portal made available through the Office of Court Administration.

Source: The Office.

Recommendations

The Office should implement processes to:

- Track the receipt of request forms.
- Verify that request forms received were entered into the CMS.

Management's Response

Management Agrees with the Recommendation

The agency will review and update its processes and procedures to ensure all cases referred to the agency are tracked and entered into CMS, including cases received manually.

Responsible Area: Chief Clerk and Chief Information Officer

Timeline for implementation: September 1, 2022

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine whether the State Office of Administrative Hearings (Office):

- Is reporting accurate performance measures results to the Automated Budget and Evaluation System of Texas (ABEST).
- Has adequate controls over the collection, calculation, and reporting of its performance measures.

Scope

The scope of this audit included two key performance measures that the Office reported for fiscal year 2020 and one key performance measure that the Office reported for fiscal year 2020 and the first three quarters of 2021 (September 1, 2020, through May 31, 2021). The scope also included an objective to review the Office's processes for collecting, calculating, and reporting performance measure data to ABEST. However, auditors could not determine whether controls over the collection, calculation, and reporting of performance measures were adequate, because of issues related to the reliability and completeness of data in the Office's Case Management System (CMS).

Methodology

The audit methodology included reviewing reported performance measure results for accuracy and compliance with performance measure definitions.

Data Reliability and Completeness

Auditors assessed the reliability and completeness of the data in the Office's CMS, which is the primary source of information used by the Office to help it calculate performance measure results for the key performance measures auditors selected to test.

To do that, auditors (1) interviewed and obtained information from the Office's staff and (2) reviewed the process for generating the reports that were used to calculate performance measures. As discussed in Section 2, auditors identified weaknesses with the Office's process for collecting and entering information about hearings and mediation cases into the CMS. Auditors determined that the data in the CMS on hearings and mediation cases was not sufficiently reliable for the purposes of this audit.

Information collected and reviewed included the following:

- Performance measure information reported in ABEST.
- Data in the CMS on hearings and mediation cases.

Procedures and tests conducted included the following:

- Interviewed Office staff to gain an understanding of the processes and systems used to calculate the performance measures tested.
- Assessed performance data results and assigned to them one of the following four categories: (1) certified, (2) certified with qualification, (3) inaccurate, or (4) factors prevented certification.

Criteria used included the following:

- *Guide to Performance Measure Management*, State Auditor's Office Report No. 12-333, March 2012.
- The Office's policies and procedures.
- ABEST performance measure definitions.

Project Information

Audit fieldwork was conducted from July 2021 through January 2022. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Those standards also require independence in both fact and appearance. At the time of the audit, legislative funding was vetoed. This condition could be seen as potentially affecting our independence in reporting results related to this agency. However, we proceeded with this audit as set forth by the annual state audit plan, operated under the Legislative Audit Committee. We believe this condition did not affect our audit conclusions.

The following members of the State Auditor's staff performed the audit:

- Armando S. Sanchez, MBA (Project Manager)
- Aaron Daigle, CPA (Assistant Project Manager)
- Justin Brister
- Nicholas Dufour, MSA
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