



# **COMPLAINT PROCESS REVIEW**

Audit Report # 2011-006

**By:**

**The Office of Injured Employee Counsel**

**INTERNAL AUDIT DIVISION**

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The Office of Injured Employee Counsel (OIEC) was established March 1, 2006 as a result of House Bill 7, passed during the 79th Texas Legislature, Regular Session, 2005. House Bill 7 abolished the Texas Workers' Compensation Commission (TWCC) and established the Division of Workers' Compensation (DWC) within the Texas Department of Insurance (TDI). House Bill 7 also preserved and moved TWCC's Ombudsman Program to OIEC.

OIEC's mission is to assist, educate, and advocate on behalf of the injured employees of Texas. OIEC fulfills its mission through its Ombudsman Program, Customer Service Division, Legal Services Division, and other outreach activities.

The purpose of this audit was to review complaints the agency received during fiscal year (FY) 2011, determine whether policies, procedures, and directives in procedure ADMIN 08-03 were being followed, and establish whether these procedures adequately reflect management's needs and requirements.

## **Scope and Methodology**

The initial scope of the audit included a review of the complaints received from September 1, 2010 through August 31, 2011, as documented on the agency's Complaint Tracking Worksheets for FY 2011.

Complaints received are controlled by assigning each one a sequential number and a folder with certain documents required by the agency's procedure ADMIN 08-03, issued in March 2009 and revised in September 2011.

The agency also uses a Complaint Tracking Spreadsheet to record event dates and actions performed by various employees during the processing of a complaint. In accordance with the Sunset Review Commission's across-the-board recommendation, each complaint is classified as either justified or unjustified.

OIEC received 53 complaints during the period reviewed. The complaint folders were reviewed for inclusion of these documents:

- Routing Sheet with steps properly initialed and dated, signifying their completion.
- Copy of Acknowledgement Letter.
- Copy of Agency Response Letter.
- Complaint Form or correspondence received from complainant stamped to indicate receipt date.

The scope also included the review and assessment of written procedures governing the complaint process functions to determine whether they adequately reflected management's needs and requirements.



Specific issues cited in the prior audit report, dated February 4, 2010, were as follows:

Issue 1 – Legal Services Division failed to meet the suggested guideline of five business days for review of the draft response.

Procedure states that a draft response be sent to Legal Services within 15 days of assignment of the complaint. Procedure also states that Legal Services provide feedback on the draft response within five days.

Policy states that all written agency responses to complaints shall be saved at OIEC N: Complaint Process/Agency Response using both the complainant's last name and the complaint tracking number.

Procedure identifies the Complaint Tracking Spreadsheet as the site for logging all necessary complaint information. However, procedure is silent as to which deadlines will be tracked and how to calculate the time limits being tracked.

This project was conducted in accordance with generally accepted government auditing standards and the *Standards for the Professional Practice of Internal Auditing* as set forth by the Institute of Internal Auditors (IIA).

## **Background Information on the Complaint Process at OIEC**

In March 2009, the agency issued a revised ADMIN 08-03 OIEC Complaint Procedure. The revisions were in response to the recommendations in Audit Report #2009-005 Agency Complaint Process Review, issued January 20, 2009.

In the current review, there were files for every complaint.

The issues identified in this report are as follows:

*Issue 1 - The majority of complaints is date stamped upon receipt.*

In the current review, one complaint received was not date stamped.

*Issue 2 – Not all complaint final responses are being reviewed by Legal Services within the guidelines prescribed by the procedure.*

In the current review, there were six instances in which recommended guideline dates were not met. All final responses were reviewed by Legal Services prior to the issuance of a formal response to the complainant, and there were no instances in which the agency did not respond within 30 business days.



*Issue 3 – Not all complaint draft responses are being provided to Legal Services within the guidelines prescribed by the procedure.*

In the current review, there were 17 instances in which recommended guideline dates were not met. All draft responses are to be forwarded to Legal Services for a final review within 15 days of the receipt of the complaint. There were no instances in which the agency did not respond within 30 business days.

*Issue 4 – Alternate Dispute Resolution*

The September 2011 revision to procedure ADMIN 08-03 provides for an alternate dispute resolution process in accordance with the Sunset Advisory Commission's across-the-board recommendations.

In the event that this process is selected by a complainant and approved by OIEC, a checklist should be developed to document that the steps required by the procedure are performed.

### **Overall Conclusion**

While most of the requirements of ADMIN 08-03 were followed and evidenced on the Complaint Tracking Spreadsheet and the Routing Sheet in each Complaint Folder, there were several instances in which the Legal Services Division did not meet the suggested guidelines for review and revisions to the draft responses. There were no instances in which this resulted in failure to respond to the complainant within 30 business days.

Management has agreed with the findings and recommendations in this audit and developed a plan for corrective actions.

I would like to thank Brian White, Deputy Public Counsel/Chief of Staff, Erick Dunaway, Associate Director of Operations, and Kristi Dowding, Operations Analyst for their cooperation and assistance during the conduct of this audit.



## **DETAILED ISSUES AND MANAGEMENT RESPONSES**

### **Issue 1 – Complaints received should be date stamped.**

Policy requires that all agency complaints be date stamped upon receipt.

One of the 53 complaint files reviewed did not have a date stamp to confirm its receipt in the agency.

Compliance with policy for date stamping complaints is substantial.

#### **Management Response:**

Management agrees that all complaints upon receipt must be date stamped. Substantial compliance is noted in the audit findings. This is simply a case of human error. Management also notes that the receipt date is noted in the one case where the complaint received was not date stamped on the routing sheet and the written 48-hour acknowledgment letter to the complainant.

### **Issue 2 – Legal Services Division failed to meet the suggested guideline of five business days for review of the draft response.**

There were six instances in which the Legal Services Division did not complete their review and revision(s) of draft complaint responses within the suggested guideline of five business days from the date the drafts were received.

#### **Recommendations:**

The Legal Services Division should strive to meet the five-day recommended guideline established in the procedure.

#### **Management Response:**

Management disagrees. Although there were six (6) instances in which Legal Services did not complete their review of the agency response within five business days, the five business days is simply a guideline and not a required timeframe. The only required timeframe is the 30 business day deadline to respond to a complaint. This was explained in detail in management's response to last year's Complaint Process Review audit and the procedure amended to reflect management's intentions regarding informal guidelines. Therefore, it is management's intention to change the procedure so that the only time periods referenced in the procedure will be email reminders to the Deputy Public Counsel/Chief of Staff and the Director of Legal Services within 25 business days



after the receipt of a complaint when a response has not yet been forwarded to Legal Services as of that date, and a reminder regarding the 30-day response deadline.

OIEC executive management takes complaints seriously and makes every effort to ensure responses are provided within 30 business days.

Considering there were no untimely responses found in the complaints reviewed, it is impressive to note that complaints are being responded to efficiently and in an average of 19.2 business days.

**Issue 3 – Not all complaint draft responses are being provided to Legal Services within the recommended guidelines prescribed by the procedure.**

In the current review, there were 17 instances in which recommended guideline dates were not met by Associate Directors of the Ombudsman Program. All draft responses are to be forwarded to Legal Services for a final review within 15 days of the receipt of the complaint. There were no instances in which the agency failed to respond within 30 business days.

**Recommendations:**

The Ombudsman Program should strive to meet the 15-day recommended guideline established in the procedure.

**Management Response:**

There were seventeen (17) instances in which the Ombudsman Program did not forward their agency response within fifteen business days to Legal Services for final review. The fifteen business days is simply a guideline and not a required timeframe. This change was made as a result of the first agency complaint audit. As noted above, it is management's intention to change the procedure to make clear that it is not interested in tracking compliance with recommended guidelines. However, Ombudsman management will be consulted by the Deputy Public Counsel/Chief of Staff to determine if any barriers may be removed to improve the timeframe to getting draft responses to Legal Services.

OIEC executive management takes complaints seriously and makes every effort to ensure responses are provided within 30 business days.

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**Issue 4 – Procedure Admin 08-03 as revised in September 2011 provides for the use of alternate dispute resolution.**

The Complaint Tracking Spreadsheet was modified to indicate whether Section 6, Alternate Dispute Resolution was elected and used for resolution of the complaint.

**Recommendation:**

The agency should develop a checklist to ensure that all process steps for alternate dispute resolution are performed if the process is selected by a complainant and approved by OIEC.

**Management Response:**

Management disagrees. Since ADR has never been requested and it is not at all clear that it will ever be requested, management believes it would be premature to develop a checklist at this time. Management appreciates the recommendation but believes the spirit of subsequently adopting an ADR procedure would be stifled by subsequently adopting a standardized checklist at this time.

