

***AGENCY STRATEGIC PLAN***  
***FOR THE FISCAL YEARS 2007-2011 PERIOD***

**SUBMITTED TO THE  
GOVERNOR'S OFFICE OF BUDGET PLANNING AND POLICY  
AND THE LEGISLATIVE BUDGET BOARD**

**BY**

***OFFICE OF PUBLIC INSURANCE COUNSEL***



***JULY 7, 2006***

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**FOR THE FISCAL YEARS 2007-2011 PERIOD**

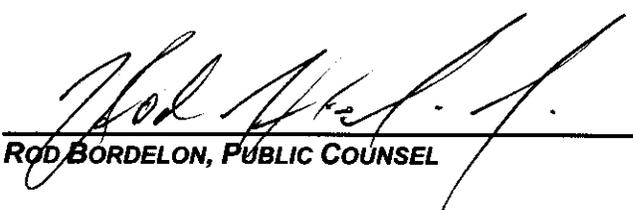
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SIGNED:

  
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ROD BORDELON, PUBLIC COUNSEL

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## ***Vision of Texas State Government***

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Working together, we can accomplish our mission and achieve these priority goals for our fellow Texans:

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

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

## ***Mission of Texas State Government***

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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.*

## ***Philosophy of Texas State Government***

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

- First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics, or individual recognition.
- Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.
- Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.

- Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. Just as competition inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.
- Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.
- State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse, and providing efficient and honest government.

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

## ***Relevant Statewide Priority Goals and Benchmarks***

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### ***Priority Goals:***

To support effective, efficient, and accountable state government operations and to provide citizens with greater access to government services while reducing service delivery costs.

To ensure Texans are effectively and efficiently served by high quality professionals and businesses through clear standards, compliance, and market-based solutions.

### ***Benchmarks:***

- Total state spending per capita
- Number of state employees per 10,000 population
- Number of state services accessible by the Internet
- Savings realized in state spending by making reports/documents/processes available on the Internet
- Texas Housing Affordability Index
- Average annual homeowners and automobile premiums as a percent of the national average

## ***Office of Public Insurance Counsel Mission***

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The mission of the Office of Public Insurance Counsel (OPIC) is to represent the interests of consumers in insurance matters. This means advocating fairness and stability in insurance rates and coverage; promoting public understanding of insurance matters; and working to make the overall insurance market more responsive to consumers; ensuring consumers receive the services they have purchased.

## ***Office of Public Insurance Counsel Philosophy***

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The Office of Public Insurance Counsel is dedicated to serving the consumers of Texas in an efficient, effective, and fair manner. Each staff member must adhere to the highest ethical standards in every aspect of the operation of the office. This includes thorough analysis of information; fairness and sensitivity in working with consumers and insurers; and fairness and diligence in carrying out the mission of the office.

## ***External / Internal Assessment***

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### ***Overview of Agency Scope and Functions***

The statutory authority for the Office of Public Insurance Counsel (OPIC) is found in the Texas Insurance Code Title 5, Subtitle A, Chapter 501. Authority for the collection of funds on behalf of OPIC is found in §§501.202-501.205. OPIC acts as an advocate for insurance consumers primarily before the Texas Department of Insurance (TDI).

OPIC represents consumers as a class on matters involving rates, rules, and forms affecting various personal lines such as property and casualty, title, and credit insurance, and on matters involving rules and forms for life, accident, and health insurance.

OPIC has worked successfully against rate increases proposed by the insurance industry. This advocacy resulted in savings of \$263 million in auto insurance rates in 2003, approximately \$387 million in 2004, and \$97 million in 2005. In other lines of insurance, OPIC saved consumers \$161 million from FY 2003 through FY 2005. In addition, OPIC opposed rate increases in numerous individual insurance company filings with settlement agreements resulting in savings to consumers of over \$414 million from FY 2003 through FY 2005.

The agency has also worked to prevent or limit the reduction of coverage available to insurance consumers. With the approval of “National Forms” and other optional forms for homeowners and automobile insurance, OPIC negotiated additional coverage that was not offered in initial company filings. Additionally, the agency has obtained improved disclosure associated with these forms and rules

prohibiting unfair discrimination. OPIC was instrumental in negotiating protections for consumers when water damage coverage was curtailed to reverse an availability and affordability crisis in the homeowners market. When hurricane damage forced homeowners out of their homes and some consumers were not reimbursed for additional living expenses, OPIC requested a market conduct investigation, resulting in additional payments to consumers and a temporary restraining order against one of the top homeowners insurance companies in the State. OPIC worked directly with insurance companies and with TDI staff to revise or remove overly restrictive language in automobile policies regarding arbitration, avoidance of coverage, and selection of a repair shop. When consumers complained that children who had cleared certain viruses were being denied health insurance, OPIC successfully petitioned the Texas Department of Insurance to commence a legal investigation. To protect health insurance consumers from payment delays that could lead to treatment delays, OPIC successfully argued to shorten the time insurance companies could take to respond to requests for verification of coverage from the initially proposed 15 days to 72 hours. In conjunction with the establishment of high deductible health plans, OPIC successfully argued for language that protected benefits and services that fall within the federal safe harbor provisions of the IRS code.

The agency issues annual consumer report cards on Health Maintenance Organizations. Mandated by the 75<sup>th</sup> Legislature, the consumer report card provides information to consumers about the various HMO products available in the state. This report card is especially valuable to consumers who are enrolling, or considering a change, in their health care plan. Included in the report card is information on the services provided by each HMO, the quality of care provided, the results of a consumer satisfaction survey, costs, complaints, and other helpful information. After the legislature restructured the Health and Human Services Commission in 2003, OPIC also began publishing the “Guide to Texas HMO Quality”, a technical report geared toward employers and statisticians previously published by the Texas Health Care Information Council. OPIC has produced consumer bills of rights for auto, homeowners, and credit insurance. Mandated by the 72<sup>nd</sup> Legislature, the bills of rights are designed to inform consumers of their specific rights in various lines of personal insurance. The agency is also required by statute to recommend to the Commissioner of Insurance public members to sit on various boards and committees such as the Texas Automobile Insurance Plan Association Governing Board and the Board of Directors for the Texas Windstorm Insurance Association.

### ***Organizational Aspects***

OPIC has 16.5 full time equivalent positions consisting of the Public Counsel, attorneys, an economist/actuary, statisticians, researchers, and support staff. The Public Counsel is the only position in the agency that is exempt from the state classification plan. Appointed by the Governor and confirmed by the Senate to a two-year term, the Public Counsel serves as executive director of the office with authority over administrative and legal decisions, and day-to-day operations. The current Public Counsel is Rod Bordelon, originally appointed by Governor George W. Bush in April 1995 and reappointed by Governor Rick Perry. The agency is located in Austin and has no regional offices.

The agency uses professional actuaries and economists as expert witnesses for ratemaking and rulemaking proceedings. Because of the nature of many of these insurance issues, specialized knowledge and expertise is required as well as the experience and background necessary to be recognized as a qualified expert within the meaning of the Rules of Evidence and recent court decisions. The agency has determined that it is more effective to contract out of office for some of these services than to have such experts on staff.

OPIC fully recognizes the importance of maintaining a staff with diverse ethnic backgrounds and adheres to an Equal Employment Opportunity (EEO) policy requiring full compliance with non-discrimination guidelines as set out by state and federal laws and regulations. In 2001, agency EEO related personnel

policies and procedural systems were reviewed by the Texas Commission on Human Rights (TCHR) and certified as being in compliance with the TCHR Act. Currently, 40% of OPIC staff are minorities and 67% are women.

In addition, OPIC is committed to minority business enterprise participation in all acquisitions. However, not all expenditures are available for competitive bidding. Many required purchases are for books and on-line services that can only be purchased directly from a sole proprietor (such as West Publishing) thereby eliminating competition. OPIC makes every effort to award non-proprietary purchasing contracts, such as printing and miscellaneous computer supply orders, to price-competitive minority vendors whenever appropriate.

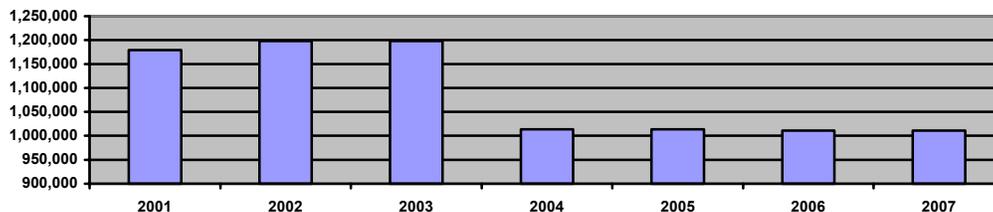
### ***Fiscal Aspects***

The assessment authority for OPIC is in the Texas Insurance Code, Title 5, Subtitle A, Chapter 501, §§501.202-501.205. OPIC's funds are specifically assessed "(t)o defray the costs of operating the office...". The annual assessments are 5.7 cents for each: property and casualty policy in force at the end of the year; owner policy and mortgagee policy of title insurance written during the year for which the full basic premium is charged; and individual policy and certificate issued under a group health, accident or life policy issued during the year for which the initial premium is paid in full. In FY 2005 assessments for OPIC totaled \$1,789,326 out of which \$1,013,533 was appropriated to the agency. This is the agency's only funding source. The unappropriated funds received from the assessment remain in general revenue.

Total appropriation amounts for several years follow:

<b>Fiscal Year</b>	<b>Appropriated Amount</b>	<b>Statutory Assessment</b>
<b>2001</b>	<b>1,179,226</b>	<b>1,956,334</b>
<b>2002</b>	<b>1,198,426</b>	<b>2,024,233</b>
<b>2003</b>	<b>1,198,426</b>	<b>1,796,216</b>
<b>2004</b>	<b>1,013,533</b>	<b>1,789,326</b>
<b>2005</b>	<b>1,013,533</b>	<b>1,790,657</b>
<b>2006</b>	<b>1,010,856</b>	<b>1,790,000 (estimate)</b>
<b>2007</b>	<b>1,010,856</b>	<b>1,790,000 (estimate)</b>

**OPIC Appropriation History  
2001 - 2007**



Since the agency's inception, its assessment has exceeded the funds appropriated to the agency, and those excess funds have remained with the state. The collection of OPIC's assessment is handled by the Comptroller of Public Accounts.

Since 1991, when OPIC's charges were greatly expanded, the agency has made a significant shift in budget priorities resulting in better services. OPIC has instituted numerous cost-cutting measures resulting in significant budget reductions. Savings reverted to the state or were applied directly to fund OPIC goals and strategies. In 2003, the Legislature significantly changed the regulation of insurance rates, rating classification plans, and policy forms by bringing all licensed automobile and residential property insurers under rate regulation by TDI. Although it eliminated benchmark rate hearings for these lines of insurance, the legislation significantly increased the agency's workload by raising the number of rate filings reviewed by the agency. The agency revised its budgetary priorities in order to absorb the increased workload as well as continue to meet requested spending reductions.

At this time, the OPIC budget is sufficient to meet its current performance measure targets. Measures include participation in 100% of the industry-wide rate hearings, 70% of analyzed rate filings, and 80% of rulemaking proceedings having a significant impact on Texas insurance consumers. The agency also expects to reach 25% of Texas consumers through publications of bills of rights, HMO report cards, and other efforts of the agency.

### ***Service Population Demographics***

The agency's customer base is insurance consumers who vary by line of insurance and needs, such as drivers buying personal auto, small employers, and families shopping for life or health coverage. Insurance consumers throughout the state often have different needs. Homeowners in North Texas may focus on coverage for roofs and related deductibles due to the prevalence of local hailstorms. Coastal residents are concerned with their homeowners rates in the Windstorm Pool due to the possibility of tropical storms, and rural residents may be concerned with access to health insurance as they shop for a managed care plan with services in their sparsely populated area. Residents along the Texas-Mexico border are concerned about large numbers of uninsured drivers and access to affordable health insurance. In some cases the concerns are uniform throughout the state such as loss of coverage or how insurance companies use credit scoring. Whether or not their interests or concerns vary, OPIC's customers inhabit all areas and counties of Texas and include those individuals who are seeking insurance as well as those who are current purchasers of insurance products.

Several common issues concern all insurance consumers: availability, affordability, and coverage. Most availability questions tend to be also related to affordability issues because in the insurance market, many products can be purchased at a price. However, because of economic difficulties, geographic location, job status, credit history, and other factors, many find themselves priced out of the market or choose not to participate. As of 2004, approximately 5.4 million or 24.6% of Texans are without health insurance, and as of 2005 an estimated 15.41% of Texas drivers are uninsured.

A growing customer base will require OPIC to continually re-examine the primary interests of Texas consumers. Texas continues to grow faster than most other states, and there is no indication that this trend will slow down. Information from the Texas State Data Center indicates that within the next five years, the total number of Texans will increase by approximately 10%. The number of residents 19 and under is expected to increase by 7%, while the number 65 and older will increase by approximately 15%. These changes will bring several challenges to the state's insurance system. For example, as our population ages, there will be an increasing need to examine such insurance options as Medicare supplement and long-term care insurance to ensure that these products are adequate for consumers and

provide the coverage they need. Close attention may also need to be paid to various insurance products targeting senior citizens as they are especially vulnerable to fraud and abuse. As the workforce in Texas increases, it will be important to monitor the costs and structure of the workers compensation insurance system.

The affordability and availability of insurance will continue to be an important issue to Texans. The ability of Texas residents to insure their businesses, property, and health are of vital importance to the economic health of communities and the health and revitalization of inner city neighborhoods.

## ***Technology***

The agency's use of technology has improved the quality and efficiency of its services. Technological developments have had a positive impact on agency operations. Although capital funds are required periodically to maintain and upgrade computer systems, the agency has been able to do more with less expense.

The agency has continued to increase its interaction with Texans through its internet web site and electronic mail service. The legal, insurance, and legislative research OPIC performs has been much more accessible through the Internet. Agency information and all publications are distributed through the web site. Longer reports are available for download in pdf (printer friendly) format. The public is able to submit requests for hard copies of publications by electronic mail. Agency staff also answer insurance related questions submitted by e-mail, and a survey posted on the agency web site allows the public an opportunity to comment on the information and services provided by the agency.

The agency files all of its reports through electronic means unless otherwise instructed. Most of the required reporting for human resources, accounting, and information resources is performed over the internet. And most of the information shared with or provided by the Legislative Budget Board, the Comptroller of Public Accounts, and various other state entities with which the agency interacts is electronically based.

## ***Economic Variables***

The insurance industry is affected by complex economic variables. Insurance rates are largely a function of the losses which must be paid on claims, as well as expenses and the income earned on investments. OPIC analyzes relevant variables when preparing its recommendations for rate and rule proceedings.

## ***Federal and State Legal Issues***

Unlike many consumer products, insurance is primarily regulated by the states. In 1944, the United States Supreme Court ruled that the insurance industry should be subject to federal jurisdiction because the industry takes part in interstate commerce. In response to that ruling, in 1945 Congress passed the McCarran-Ferguson Act that exempts insurance from federal antitrust laws with some exceptions. With the passage of the McCarran-Ferguson Act, regulation of insurance was placed in the hands of the states. However, in spite of McCarran-Ferguson, federal actions have and will continue to affect the insurance industry and require state action. Currently, Congress is considering legislation that would remove significant insurance regulatory authority from the states and substitute federal oversight.

Recent significant changes in the federal banking statutes will have an ongoing effect on the State of Texas. The Financial Modernization Act (Gramm, Leach, Bliley Act) allows financial institutions

previously prohibited from engaging in the sale of insurance products to do so. Many financial institutions in Texas have begun to sell insurance products, and some insurance companies have entered the banking business. While consumers may find more products and the benefit of “one stop shopping”, there may be new opportunities for abuses. Partnerships between these entities could cause the inappropriate sharing of private information, and privacy issues must be monitored closely. We expect to see a continued increase in internet offerings of insurance products as well as cross-sales. These changes bring new challenges to advocating for consumers and ensuring that their rights are protected.

At the state level, the most significant factor affecting the future role of OPIC is the implementation of recent legislation that has increased the level of rate regulation for residential property and automobile insurance. Insurance companies previously exempt from rate regulation are now subject to filing requirements and OPIC is reviewing many more filings than before.

At the state level, there are several legislative interim and oversight committees considering insurance-related issues such as the implementation of a new workers compensation system based on providing care through health care networks; regulation and management of health care plans, including network adequacy, reimbursement for out-of-network claims, the effect on costs to health care plans of discounting the patient’s share of a claim, and possible expansion of data health care plans report to TDI; the cost to insurance companies for health care mandates and recommendations for providing increased cost-effective coverage to people with impairments and diseases as well as the underinsured and the uninsured; the availability and affordability of insurance for Texans suffering from eating disorders; and the status of floodplain mapping as it relates to insurance rates and protection in the event of a natural disaster. It is expected that OPIC will be called on to provide information or assistance on these and other issues.

### ***Self Evaluation and Opportunities for Improvement***

In 1997 the State Auditor’s Performance Measures-Phase 12 audit found 100% certification for all measures. In addition, the agency was cited by the auditor’s office as one of the few agencies that achieved 100% reliability. In 1999, agency staff was recognized by the Legislative Budget Board for excellent efforts on performance measures reporting.

During the Fiscal Years 2002-2003 biennium, in compliance with H.B. 609, 77<sup>th</sup> Legislature, the agency had two internal audits performed by an outside vendor. There were no significant findings in either audit. The information technology systems security audit performed in 2002 identified two minor areas for security enhancement, and the agency implemented the recommendations. In the 2003 payroll audit no recommendations for improvement were made. In fact, the agency was commended for having excellent policies and procedures in place and for the accuracy and reliability of its payroll records.

During Fiscal Years 2004 and 2005, OPIC participated in all industry-wide rate hearings scheduled by the Texas Department of Insurance, 76 rate filings, and 76 rulemaking proceedings. An estimate of the dollar savings to consumers as a result of OPIC’s participation in rate hearings is approximately \$668 million for the FY 2004-2005 biennium. In addition, the agency provided benefits to consumers that are not quantifiable in dollar savings.

As the agency charged with advocating for positions advantageous to Texas insurance consumers, OPIC performs a number of functions. However, all of these functions are designed to work together, to be mutually beneficial and supportive. As an example, the agency participates as a party in proceedings such as rulemaking and ratemaking and provides information to regulatory entities and, on request, to Legislative members for decision making. These activities vary, but all are designed to bring information to decision makers in order to achieve financial or public policy benefits for consumers. As a supportive

activity, the agency's information-gathering efforts have provided information for rule proposals and legislative solutions that have produced savings or benefits to consumers.

The agency is charged with advocating positions most advantageous for insurance consumers, and as such must be able to provide the Commissioner of Insurance and the State Office of Administrative Hearings complete input from the consumers' position. The agency must hear and understand from Texas consumers what their needs are and must be able to provide technical and knowledgeable evidence regarding those needs to the regulatory decision maker.

The agency's goals and strategies have been developed in response to statutory duties and are in line with the Governor's statewide planning elements. The agency acts as a consumer advocate in order to ensure fair rates and coverage. The agency's advocacy efforts are to ensure that these insurance rates are affordable to Texans and that insurance companies are serving their policyholders. As a result, it promotes the health and self-sufficiency of Texans, encourages economic growth, and supports new business creation.

## **Agency Goals, Objectives, Strategies, and Performance Measures**

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**GOAL:** To advocate positions advantageous to Texas consumers effectively in rate, rulemaking, judicial and legislative proceedings, and other public forums involving insurance matters.

**OBJECTIVE:** In each year, participate in all rate hearings, rate filings, and rulemaking proceedings, as well as any judicial proceedings, including appeals subsequent to administrative proceedings and amicus briefs, having a significant impact on Texas insurance consumers to ensure that insurance rates in Texas are fair and that rules are adequate to protect Texas insurance consumers; and act as a resource in legislative proceedings addressing issues affecting Texas insurance consumers through 2011.

Outcome Measures:

- Percentage of Rate Hearings in Which OPIC Participated
- Percentage of Analyzed Rate and Rule Proceedings in Which OPIC Participated
- Percentage of Rates and Rules Changed as a Result of OPIC Participation

**STRATEGY:** Participate in rate hearings, rate filings, and rulemaking proceedings, as well as any judicial proceedings including appeals subsequent to administrative proceedings and amicus briefs, on behalf of Texas insurance consumers by using expert witnesses, providing staff and consumer testimony, and relying on staff research and staff attorneys; and provide information and research to the Legislature and executive branch.

Output Measures

- Number of Rate Hearings in Which OPIC Participated
- Number of Analyzed Rate Filings in Which OPIC Participated
- Number of Rulemaking Proceedings in Which OPIC Participated
- Number of Proposed New Rules Analyzed
- Number of Rate Filings Analyzed

Efficiency Measure:

- Average Cost Per Rate Hearing in which OPIC Participated

**GOAL:** To increase effective consumer choice by educating Texas insurance consumers about their rights and responsibilities and about the operation of Texas insurance markets, and to obtain market information which results in rate, rule, or legislative proposals benefiting Texas insurance consumers.

**OBJECTIVE:** To contact Texas insurance consumers by efficient means about insurance coverage and the insurance marketplace by reaching 30% of those consumers each year and to participate in public forums to obtain information in order to formulate positions advantageous to insurance consumers through 2011.

Outcome Measures:

- Percentage of Texas Insurance Consumers Reached by OPIC Outreach Efforts
- Percentage of Bills of Rights Submitted for Adoption within Established Timelines

**STRATEGY:** To contact Texas consumers to obtain market information and to provide consumers with information needed in order to make informed choices by conducting issue research, producing informational materials, making public presentations, and formulating and revising consumer bills of rights.

Output Measures:

- Number of Bills of Rights or Revisions Proposed
- Number of Report Cards and Publications Produced and Distributed
- Number of Public Presentations and Communications

Efficiency Measure:

- Average Cost Per Consumer Reached through Agency Publications/Reports and Public Presentations/Apearances

**GOAL:** **To establish and implement policies governing purchasing that foster meaningful and substantive inclusion of historically underutilized businesses (HUBs).**

**OBJECTIVE:** To increase the use of HUBs in the total value of contracts and subcontracts awarded annually by the agency.

Outcome Measure:

- Percentage of Total Dollar Value of Purchasing Contracts and Subcontracts Awarded to HUBs.

**STRATEGY:** Develop and implement a plan for increasing the use of historically underutilized businesses through purchasing contracts and subcontracts.

Output Measures:

- Number of Bid Proposals from HUB Contractors and Subcontractors
- Number of HUB Contracts and Subcontracts Awarded
- Dollar Value of HUB Contracts and Subcontracts Awarded

## ***Appendices***

## APPENDIX A

### ***Agency Planning Process***

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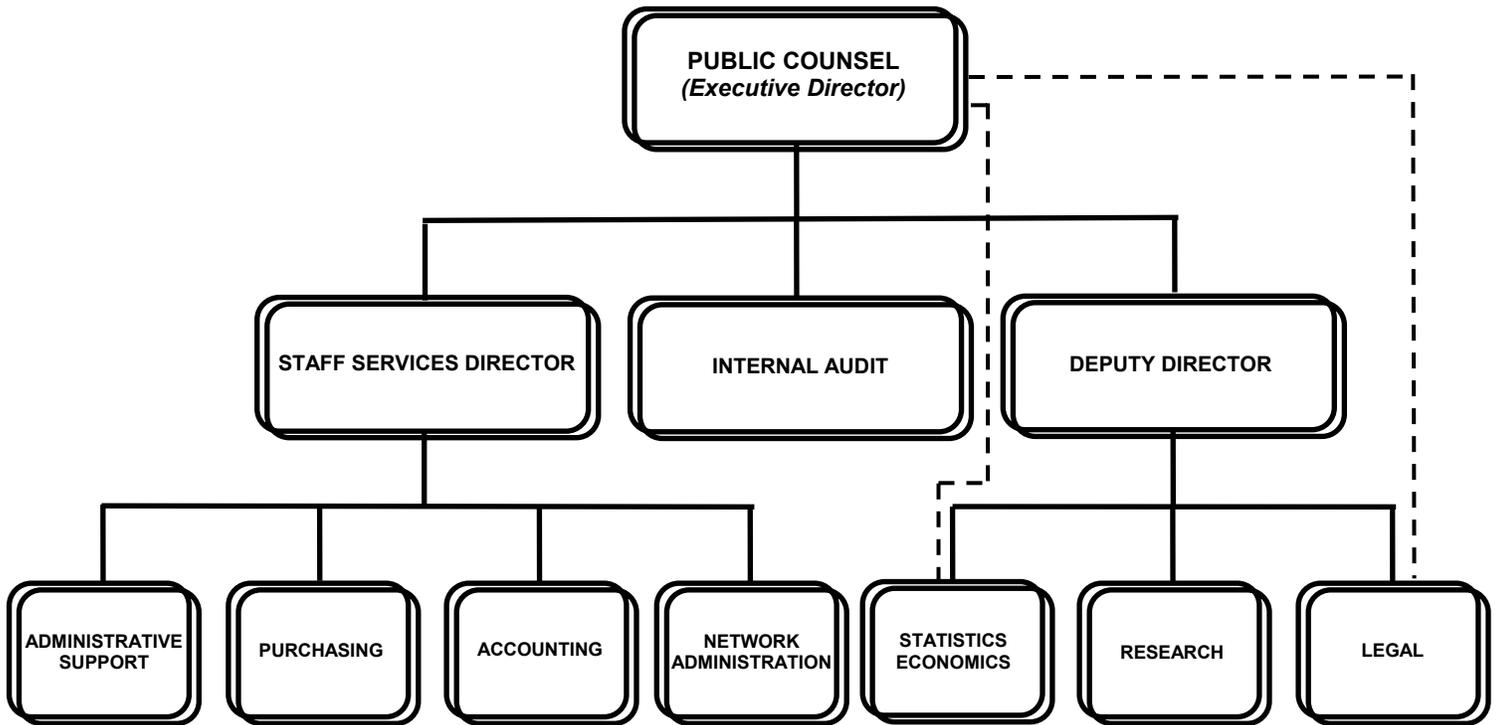
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During each fiscal year, OPIC staff periodically meets with consumers and consumer groups, the Texas Department of Insurance staff, and with Legislators and their staff to discuss agency programs and services. In addition, the agency surveys consumers by mail and through its web site to obtain feedback on services provided. Throughout the process, positive and negative attributes of the agency are noted, discussed, and evaluated. OPIC key personnel meet periodically to discuss performance, performance measures, and agency strategy. At critical stages during the development of the strategic plan, copies are circulated to key OPIC staff for comments and discussion. Meetings are then held to finalize the plan.

APPENDIX B

Organizational Chart

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## APPENDIX C

### *Projected Outcomes*

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**Office of Public Insurance Counsel  
Projected Outcomes for Fiscal Years 2007-2011**

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<b>Outcome</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Percentage of Rate Hearings in Which OPIC Participated	100%	100%	100%	100%	100%
Percentage of Analyzed Rate and Rule Proceedings in Which OPIC Participated	73%	73%	73%	73%	73%
Savings to Consumers as a Result of Rate Hearings Participation (In Millions)	\$450	N/A	N/A	N/A	N/A
Percentage of Rates and Rules Changed as a Result of OPIC Participation	90%	90%	90%	90%	90%
Percentage of Texas Insurance Consumers Reached by OPIC Outreach Efforts	25%	25%	25%	25%	25%
Percentage of Bills of Rights Submitted for Adoption within Established Timelines	100%	100%	100%	100%	100%

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## APPENDIX D

### **Performance Measures Definitions**

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#### **OUTCOME MEASURES**

- **Percentage of Rate Hearings in which OPIC Participated**

**Definition:** *The percentage of rate hearings in which the agency participated. Rate hearings include administrative proceedings held before the Commissioner of Insurance or an administrative law judge to set or disapprove rates and classification plans for various lines of insurance, as well as judicial appeals subsequent to such administrative proceedings.*

**Data Limitations:** *The number of rate hearings is largely determined by outside influences such as the number and timing of rate filings made by insurers and the reasonableness of the rates requested in the filings as well as the number of hearings scheduled by the Texas Department of Insurance.*

**Data Source:** *Data used for this calculation is from an agency database maintained and utilized to track projects, activities, and outcomes of the agency.*

**Methodology:** *The number of rate hearings in which the agency participated during the reporting period is divided by the total number of such hearings for the reporting period.*

**Purpose:** *Participation in rate hearings addresses the agency's statutory duty to intervene on behalf of consumers in matters involving rates affecting all lines of insurance for which the commissioner sets or disapproves rates. Advocating for insurance consumers in these rate hearings is one of the primary goals of the agency. It is important to monitor any trends in these hearings in order to determine market trends and to aid the agency in its budget planning process.*

**Calculation Type:** *Noncumulative Percentage*

**New Measure:** *No*

**Desired Performance:** *Target*

- **Percentage of Analyzed Rate and Rule Proceedings in which OPIC Participated**

**Definition:** *The percentage of analyzed rate and rule proceedings in which the agency participated. Analyzed rate proceedings include rates filed by individual insurance companies which are reviewed to determine if they affect, or have the potential to affect, a class or a substantial number of consumers. Analyzed rulemaking proceedings include proposals for rule changes filed by insurance companies, insurance industry trade groups, the Texas Department of Insurance staff, individual consumers, consumer groups, or the agency which are reviewed to determine if they affect, or have the potential to affect, a class or a substantial number of consumers.*

**Data Limitations:** *The number of rate and rulemaking proceedings in which the agency participates is largely determined by outside influences such as the number of such filings or proposals made and the reasonableness of the rates requested in the filings.*

**Data Source:** *An agency database is maintained and utilized to track projects, activities, and related outcomes for the agency. Information regarding rate and rulemaking proceedings is entered by agency staff on a regular basis. Data is collected from various sources including the Texas Register.*

**Methodology:** *The number of rate hearings and rulemaking proceedings in which the agency participated during the reporting period is divided by the total number of such proceedings for the reporting period.*

**Purpose:** *This measure addresses the agency's statutory duty to intervene on behalf of insurance consumers in matters involving rates, rules, and forms in various lines of insurance. It is important to monitor any trends in the number or type of these proceedings conducted in order to determine market trends and to aid the agency in its budget planning process.*

**Calculation Type:** *Noncumulative. Percentage*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

- **Percentage of Rates and Rules Changed as a Result of OPIC Participation**

**Definition:** *The percentage of rates and rules changed as a result of agency participation. Rates and rules changed as a result of OPIC participation includes the adoption or partial adoption of a consumer benefit, including rate reductions, rate justifications, increased coverage or other benefits, as a result of the agency's analysis, recommendation, and participation in rate or rulemaking proceedings.*

**Data Limitations:** *The number of rate filings or rule proceedings analyzed and negotiated by the agency is largely determined by outside influences such as the number and timing of such filings or proposals made and the reasonableness of the rates requested or the number of proposals set for hearing by the Texas Department of Insurance.*

**Data Source:** *An agency database is maintained and utilized to track projects, activities, and related outcomes for the agency. Information regarding rate filings and rule proposals is entered by agency staff on a regular basis.*

**Methodology:** *The total number of rate and rule proceedings in which the agency was successful in obtaining benefits for consumers during the reporting period is divided by the total number of such proceedings for the reporting period.*

**Purpose:** *Participation in rate hearings and rulemaking proceedings addresses the agency's statutory duty to intervene on behalf of consumers in matters involving rates, rules, and forms affecting various lines of insurance. Participating and advocating for insurance consumers in these hearings is one of the primary goals of the agency. It is important to monitor these goals to determine the level of benefit received by consumers.*

**Calculation Type:** *Noncumulative. Percentage*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

- **Percentage of Texas Insurance Consumers Reached by OPIC Outreach Efforts**

**Definition:** *The percentage of insurance consumers reached by the agency's outreach efforts. Insurance consumers reached include consumers who access or receive agency publications and information through electronic or other means.*

**Data Limitations:** *Limited availability of data has resulted in estimates only for this measure. While web site visits and actual distribution of hard copy material is easily tracked, it is difficult to determine how many insurance consumers are accessing information through other media.*

**Data Source:** *Data regarding agency publications is maintained on a database and updated regularly. Market information such as the number of insurance policyholders in the state is available from the Texas Department of Insurance. The agency uses an internet service to summarize and report its web site activity.*

**Methodology:** *The estimated number of consumers to whom agency publications and information including interviews, HMO report cards, and consumer bills of rights are distributed through electronic or other means during the reporting period is divided by the total number of insurance consumers in the state during the reporting period.*

**Purpose:** *The percent of consumers reached addresses the agency's statutory duty to advocate on behalf of consumers, submit consumer bills of rights to be distributed to insurance policyholders, and provide consumers with a comparison and evaluation of HMOs in Texas. It is important to monitor these activities in order to determine market trends and to aid the agency in its budget planning process.*

**Calculation Type:** *Noncumulative. Percentage*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

- **Percentage of Bills of Rights Submitted for Adoption within Established Timelines**

**Definition:** *The percentage of consumer bills of rights and revisions submitted to the Texas Department of Insurance for adoption within established timelines.*

**Data Limitations:** *Revisions to the bills of rights may be required depending upon legislative or regulatory action.*

**Data Source:** *An agency database is maintained and updated regularly regarding bills of rights information.*

**Methodology:** *The number of consumer bills of rights and revisions submitted to the Texas Department of Insurance for adoption during the reporting period is divided by the total number of bills of rights scheduled for completion by the agency during the reporting period.*

**Purpose:** *This measure addresses the agency's statutory duty to submit bills of rights for distribution to consumers to advise them of their rights in various personal lines of insurance.*

**Calculation Type:** *Noncumulative. Percentage*

**New Measure:** *No*

**Desired Performance:** *Target*

## **OUTPUT MEASURES**

- **Number of Rate Hearings in which OPIC Participated**

**Definition:** *The number of rate hearings in which the agency participated. Rate hearings include administrative proceedings held before the Commissioner of Insurance or an administrative law judge to set or disapprove rates and classification plans for various lines of insurance including personal automobile and homeowners insurance, as well as judicial appeals subsequent to such judicial proceedings.*

**Data Limitations:** *The number of rate hearings is largely determined by outside influences such as the number and timing of rate filings made by insurers and the reasonableness of the rates requested in the filings as well as the number of hearings scheduled by the Texas Department of Insurance.*

**Data Source:** *An agency database is maintained and utilized to track projects, activities, and related outcomes for the agency. Information regarding rate hearings is entered by agency staff on a regular basis.*

**Methodology:** *Rate hearings in which the agency participated as a party of record during the reporting period are totaled.*

**Purpose:** *This measure is intended to show the number of rate hearings held during any given year. Participation in these hearings addresses the agency's statutory duty to intervene on behalf of consumers on matters involving rates of various lines of insurance. This is one of the primary goals of the agency and one of its largest expenditures. It is important to monitor these proceedings in order to determine market trends and to aid the agency in its budget planning process.*

**Calculation Type:** *Cumulative*

**New Measure:** *No*

**Desired Performance:** *Target*

- **Number of Analyzed Rate Filings in which OPIC Participated**

**Definition:** *The number of rates filed by individual insurance companies which the agency analyzed and in which the agency participated in settlement negotiations or pre-hearing matters during the reporting period. This measure includes filings which the agency analyzed and contested by filing a formal objection and request for disapproval and/or a request for hearing. It also includes activities conducted in preparation for a hearing, such as conducting discovery, submitting requests for information and filing pre-hearing motions which did not result in a hearing because of negotiations and settlement between the agency and the insurance company that made the filing.*

**Data Limitations:** *The number of rate filings analyzed and negotiated by the agency is largely determined by outside influences such as the number and timing of such filings and the reasonableness of the rates requested in the filings.*

**Data Source:** *An agency database is maintained and utilized to track projects, activities, and related outcomes for the agency. Information regarding individual rate filings is entered by agency staff on a regular basis.*

**Methodology:** *Rates filed by individual insurance companies which the agency analyzed and in which the agency participated in settlement negotiations or pre-hearing matters during the reporting period are totaled.*

**Purpose:** *This measure addresses the agency's statutory duty to intervene on behalf of insurance consumers in matters involving rates of various lines of insurance. This is one of the primary goals of the agency, and it is important to monitor the number of significant rate filings in order to determine market trends and to aid the agency in its budget planning process.*

**Calculation Type:** *Cumulative*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

- **Number of Rulemaking Proceedings in which OPIC Participated**

**Definition:** *The number of proceedings on proposed rules or rule changes in which the agency participated by providing written and/or oral testimony during the reporting period. This measure includes discussions or negotiations prior to postings or hearings that may result in the agency's recommendation being incorporated into the proposal prior to publication, or which eliminates the need for a hearing. Rulemaking proceedings include administrative proceedings proposals by the Texas Department of Insurance, insurance companies, insurance industry trade groups, consumer groups, individual consumers, the agency, or other entities which affect or have the potential to affect a class or a substantial number of consumers as well as judicial appeals subsequent to such administrative proceedings.*

**Data Limitations:** *The number of rulemaking proceedings analyzed and participated in by the agency is largely determined by outside influences such as the number of such proposals made by others and the number of those proposals set for hearing by the Texas Department of Insurance.*

**Data Source:** *An agency database is maintained and utilized to track projects, activities, and related outcomes for the agency. Information regarding rulemaking proceedings and proposals is entered by agency staff on a regular basis. Data is collected from the Texas Register and the agency conducting the proceeding.*

**Methodology:** *Rulemaking proceedings in which the agency participated during the reporting period are totaled.*

**Purpose:** *This measure addresses the agency's statutory duty to intervene on behalf of insurance consumers in matters involving rules and forms affecting various lines of insurance. It is important to monitor the number or type of rulemaking proceedings conducted in order to determine market trends and to aid the agency in its budget planning process.*

**Calculation Type:** *Cumulative*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

- **Number of Proposed New Rules Analyzed**

**Definition:** *The number of new rules proposed at the Texas Department of Insurance or other state agency which the agency analyzed but did not provide oral or written testimony or take any other action on during the reporting period.*

**Data Limitations:** *The number of rulemaking proceedings analyzed by the agency is largely determined by outside influences such as the number and type of such proposals made by others.*

**Data Source:** *An agency database is maintained and utilized to track projects, activities, and related outcomes for the agency. Information regarding rulemaking proceedings and proposals is entered by agency staff on a regular basis. Data is collected from the Texas Register and the agency receiving the rule proposal.*

**Methodology:** *New rule proposals, including proposals at the Texas Department of Insurance or another state agency, which the agency analyzed but did not take action on during the reporting period are totaled.*

**Purpose:** *This measure addresses the agency's statutory duty to intervene on behalf of insurance consumers in matters involving rules and forms affecting various lines of insurance. It is important to monitor the number or type of rulemaking proposals in order to determine market trends and to aid the agency in its budget planning process.*

**Calculation Type:** *Cumulative*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

- **Number of Rate Filings Analyzed**

**Definition:** *The number of rate filings which the agency analyzed but did not provide oral or written testimony or take any other action on during the reporting period.*

**Data Limitations:** *The number of rate filings analyzed by the agency is largely determined by outside influences such as the number and type of filings made by insurers.*

**Data Source:** *An agency database is maintained and utilized to track projects, activities, and related outcomes for the agency. Information regarding rate filings is entered by agency staff on a regular basis. Data is collected from the Texas Register and the agency receiving the rate filing.*

**Methodology:** *Rate filings which the agency analyzed but did not take action on during the reporting period are totaled.*

**Purpose:** *This measure addresses the agency's statutory duty to intervene on behalf of insurance consumers in matters involving rates related to various lines of insurance. It is important to monitor the number or type of rate filings in order to determine market trends and to aid the agency in its budget planning process.*

**Calculation Type:** *Cumulative*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

- **Number of Bills of Rights or Revisions Proposed**

**Definition:** *The number of completed consumer bills of rights or revisions submitted to the Texas Department of Insurance for adoption during the reporting period.*

**Data Limitations:** *Revisions to the bills of rights may be required depending upon legislative or regulatory action.*

**Data Source:** *Data used for this calculation is from an agency database maintained and utilized to track projects, activities, and outcomes of the agency. Information regarding bills of rights is entered by agency staff on a regular basis.*

**Methodology:** *Consumer bills of rights and revisions submitted to the Texas Department of Insurance during the reporting period are totaled.*

**Purpose:** *This measure addresses the statutory duty of the agency to submit for adoption a consumer bill of rights for each personal line of insurance.*

**Calculation Type:** *Cumulative*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

- **Number of Report Cards and Publications Produced and Distributed**

**Definition:** *The number of agency-produced publications, including consumer report cards, which were distributed during the reporting period.*

**Data Limitations:** *Data used to determine internet activity is based on monthly reports from an outside source.*

**Data Source:** *Data used for this calculation is from an agency database and monthly server profiles on the agency's internet activity. The database is maintained and utilized to track projects, activities, and outcomes of the agency.*

**Methodology:** *Agency-produced publications, including consumer report cards, which were distributed during the reporting period are totaled.*

**Purpose:** *This measure addresses the statutory duty of the agency to advocate on behalf of consumers and provide consumers with a comparison and evaluation of HMOs in Texas. It is important to monitor these costs to aid the agency in its budget planning process.*

**Calculation Type:** *Cumulative*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

- **Number of Public Presentations and Communications**

**Definition:** *The number of public presentations and communications, including presentations and communications to advisory groups or task forces, media, and other entities outside the agency.*

**Data Limitations:** *The number of public presentations and communications is largely determined by media interest and other outside interest in insurance issues during the reporting period. Advisory groups or task forces are usually set up by other agencies, often as directed by legislative mandate.*

**Data Source:** *Data used for this calculation is from agency databases maintained and utilized to track projects, activities, and outcomes of the agency. Information regarding public presentations and communications to advisory groups or task forces, media, and other entities outside the agency is entered by agency staff on a regular basis.*

**Methodology:** *Public presentations and communications, including presentations and communications to advisory groups or task forces, media, and other entities outside the agency during the reporting period are totaled.*

**Purpose:** *This measure addresses the agency's statutory duty to advocate on behalf of insurance consumers and provide information regarding quality of care provided by Texas HMOs. It is important to monitor this measure in order to aid the agency in its budget planning process.*

**Calculation Type:** *Cumulative*

**New Measure:** *No*

**Desired Performance:** *Target or higher*

## **EFFICIENCY MEASURES**

- **Average Cost Per Rate Hearing in which OPIC Participated**

**Definition:** *The average cost per rate hearing in which the agency participated. Rate hearings include administrative proceedings held before the Commissioner of Insurance or an administrative law judge to set or disapprove rates and classification plans for various lines of insurance including personal automobile and homeowners insurance, as well as judicial appeals subsequent to such judicial proceedings.*

**Data Limitations:** *The number of rate hearings is largely determined by outside influences such as the number and timing of rate filings made by insurers and the reasonableness of the rates requested in the filings as well as the number of hearings scheduled by the Texas Department of Insurance.*

**Data Source:** *Data used for this calculation is from an agency database, the comptroller's USAS system, and timesheets maintained by attorneys and support staff. An agency database is maintained and utilized to track projects, activities, and outcomes of the agency.*

**Methodology:** *The total funds expended or costs incurred during the reporting period for participation in rate hearings is divided by the number of rate hearings in which the agency participated as a party during the reporting period. Costs include professional expert witness fees, staff salaries (attorney and support staff), and administrative costs and expenses. Administrative costs for capital expenditures are included and allocated in the same proportion that rate hearing activities bear to the total office activity for each reporting period.*

**Purpose:** *This measure is intended to show the cost of these rate hearings. Participation in rate hearings addresses the agency's statutory duty to intervene on behalf of consumers in matters involving rates of various lines of insurance. Participating in and advocating for insurance consumers in these hearings is one of the primary goals of the agency. It is important to monitor these costs in order to aid the agency in its budget planning process.*

**Calculation Type:** *Cumulative*

**New Measure:** *No*

**Desired Performance:** *Target or lower*

- **Average Cost Per Consumer Reached through Agency Publications**

**Definition:** *The average cost per consumer reached through agency publications. Funds expended or costs incurred per consumer during the reporting period for distributing publications to insurance consumers.*

**Data Limitations:** *Web site visits and actual distribution of hard copy material is used.*

**Data Source:** *Data used for this calculation is from an agency database and economic calculations regarding the number of insured in Texas for the reporting period. The agency database is maintained and utilized to track projects, activities, and outcomes of the agency.*

**Methodology:** *Total funds expended or costs incurred during the reporting period for distribution of publications are divided by the estimated number of consumers reached during the reporting period. Costs include publication and distribution expenses such as supplies, printing costs, and postage. The number of consumers reached includes the number of consumers who access or receive agency publications and information including HMO report cards and consumer bills of rights.*

**Purpose:** *This measure is intended to show the cost of reaching consumers with agency publications and information. Communication with consumers addresses the agency's statutory duty to advocate on behalf of consumers, submit consumer bills of rights to be distributed to insurance policyholders, and provide consumers with a comparison and evaluation of HMOs in Texas. It is important to monitor these costs to aid the agency in its budget planning process.*

**Calculation Type:** *Noncumulative*

**New Measure:** *No*

**Desired Performance:** *Target or lower*

## APPENDIX E

### ***Agency Workforce Plan***

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#### **Anticipated Changes to the Agency's Role**

The key factor affecting the future role of the Office of Public Insurance Counsel (OPIC) is the fluid nature of insurance regulation. In 1999, the U.S. Congress passed important legislation commonly referred to as the Gramm-Leach-Bliley Act. This law repealed a number of Depression-era prohibitions related to the business of insurance.

Of particular importance was the ending of restrictions that prohibited corporations from engaging in the business of both insurance and banking. In addition, the new law may eventually change the system of state by state regulation of insurance companies that has been in place since the 1940s possibly enhancing the historically marginal role of the federal government.

At the state level, the most significant factor affecting the future role of OPIC is the implementation of recent legislation that has increased the level of rate regulation for residential property (e.g. homeowners) and automobile insurance. Insurance companies previously exempt from rate regulation are now subject to filing requirements and OPIC is reviewing many more filings than before.

Future long term staffing plans are based on the Office of Public Insurance Counsel's increased role and responsibility in the regulatory process.

#### **Current Workforce Profile (*Supply Analysis*)**

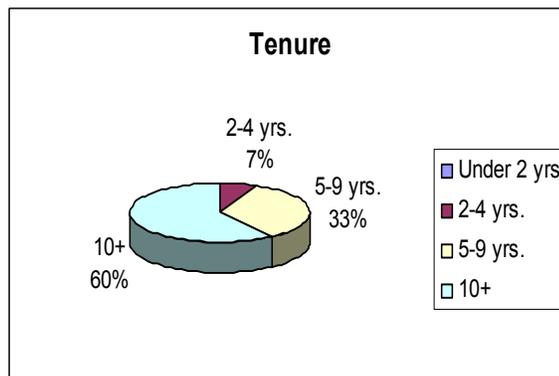
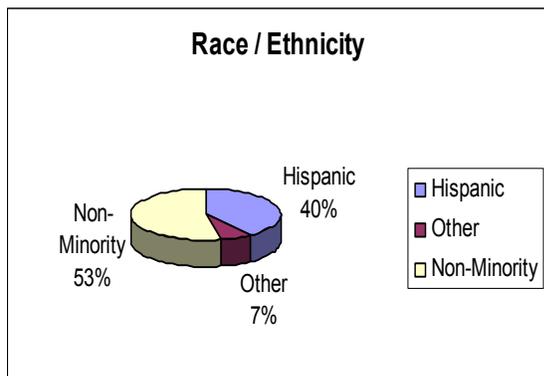
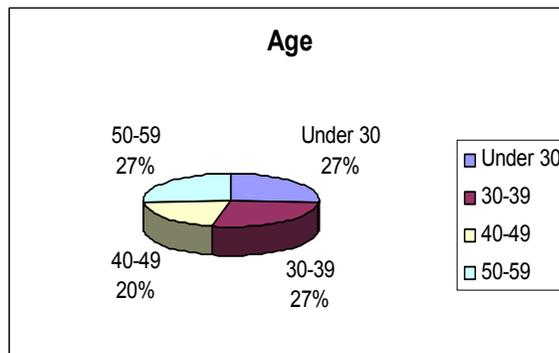
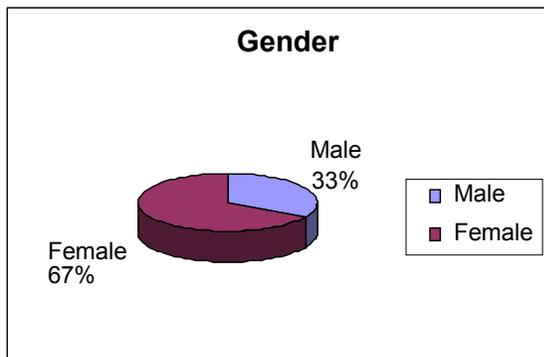
##### ***Critical Workforce Skills***

The agency currently has a strong, well qualified staff capable of performing the following functions that are critical to daily operations:

- Insurance rate making analysis
- Legal and insurance policy analysis
- Legal and insurance related research
- Administration (budgeting, accounting, purchasing, payroll, human resources).

##### ***Workforce Demographics***

The following charts profile the agency's workforce as of June 30, 2006. The agency is authorized 16.5 positions consisting of attorneys, economists, statisticians, researchers and support staff. Currently, this workforce is comprised of one-third males and two-thirds females with 53.3% being under age 40 and 46.7% being between age 40 and 59. The agency strives towards maintaining a diverse workplace and has had no significant change in the race/ethnic breakdown of its workforce in the past several years. At present, 47% of the agency's employees are minorities. Tenure remains high with 60% of the agency workforce having over ten years of state service.



***Employee Turnover***

Historically, the agency averages two employee resignations per year. However, turnover statistics are not particularly reliable for an agency this size. The difference between one or two persons leaving in a year doubles the turnover percentage rate from 6% to 12%. The turnover rate to date for FY 2006 is 6%. We do not anticipate an increase in that percentage between now and the end of the fiscal year. In FY 2005 the turnover rate was 0% and in FY 2004 it was 6%. Future attrition is likely to remain in the same range of zero to two persons leaving the agency per year.

***Retirement Eligibility***

At this time, the agency does not consider retirement eligibility to be a significant issue. Having been created in 1991, the Office of Public Insurance Counsel is a young agency and has always had a fairly young workforce. The first OPIC employee to attain retirement eligibility retired on January 31, 2006. However, that employee has since returned to work at the agency in the same position causing no significant impact to the critical functions performed in that position. The agency will have two additional employees eligible to retire within the next 3 to 5 years.

## **Future Workforce Profile (*Demand Analysis*)**

Anticipating changes to the state insurance regulatory environment requires that we continually reevaluate the skill sets of our workforce. We expect to continue a transition from rule and policy commentary and standard legal procedural activities to more quantitative technical functions involving research analysis and rate review.

### ***Critical Functions***

- Improved capability for quantitative statistical insurance research and rate analysis
- Enhanced targeted research project functions

### ***Expected Workforce Changes***

- Improve use of technology to increase research productivity
- Increase level of cross-training to maximize productivity of existing staff resources
- Continue seeking employees with strong quantitative skill set

### ***Anticipated Increase/Decrease in FTEs***

- No change to the agency's FTE count is anticipated

### ***Future Workforce Skills Needed***

- Statistical software
- Strategic planning
- Insurance experience
- Research skills
- Teambuilding skills
- Database design
- Mathematical background
- Legal analysis

## **Gap Analysis**

The agency presently has sufficient personnel with the appropriate skills to make the transition to a more technical quantitative environment. However, there is the potential for a gap if there is ever significant turnover in key positions. Should this occur, the agency must be in a strong position to allow succession from within and recruit new employees with the appropriate skills needed to perform functions considered to be critical by the agency.

Historically, the agency has been able to recruit individuals with an insurance and policy background and those with strong quantitative analysis credentials. The difficulty is in finding individuals with both skill sets. This increases the importance of cross training to develop the potential of existing employees by enhancing their skills and abilities. The agency must also continue to improve existing efforts to recruit new employees with necessary skills as the need arises.

## Strategy Development

<b><i>Gap</i></b>	Existing employees may not be adequately prepared for succession if there is turnover among key employees.
<b><i>Goal</i></b>	Develop practices and procedures to ensure employee development and training for future succession and skill enhancement.
<b><i>Rationale</i></b>	Small agencies are vulnerable to potential lack of succession when there is turnover at key positions. Expanding agency responsibilities contributes to a tendency toward task and subject matter specialization. The nature and complexity of insurance issues exacerbates this situation. It is important for the agency to create an environment where key employees mentor, train and work with potential successors to ensure tasks can continue to be performed in the event of departure or extended absence (maternity leave, illness, etc.).
<b><i>Action Steps</i></b>	<ul style="list-style-type: none"> <li>• Develop project management strategies to ensure pairing of experienced employees with newer employees of lesser experience.</li> <li>• Survey employees to determine which skills they feel require more development.</li> <li>• Examine alternatives for employee training that maximizes resources. Examples of avenues for research include internal training, internet training, cross-agency training, external training.</li> <li>• Develop internal cross-training procedures to allow for greater breadth of responsibility and knowledge.</li> <li>• Include personnel turnover as an area for review in the internal audit risk assessment.</li> </ul>

**APPENDIX F**

***Survey of Organizational Excellence Results and Utilization Plans***

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***(Not applicable to this agency)***

**APPENDIX G**

***Workforce Development System Strategic Plan***

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***(Not applicable to this agency)***